

Service Date: January 10, 2018

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)
)

THIRD 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 Requests MCC-113(c) through 116, which requests the following information:

MCC-113(c) and 114: The combined utility return on investment capital, how it is derived, possible comparisons with the average cost of capital, and related target information ("ROI Information");

MCC-115: Monthly trial balances for Montana Dakota and MDU and information regarding their contents ("Trial Balances"); and

MCC-116: Montana-Dakota's 2015 federal income tax return ("Tax Return").

This information is referred to collectively as the "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 consists of financial data and facts, including Montana-Dakota's investment information, financial information, and tax records. It also includes the financial information of other utilities, as described below.

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 Trial Balances and ROI Information constitutes material nonpublic information protected by Regulation FD. It includes sensitive information from Montana-Dakota’s financial records, which is not shared publicly. Montana-Dakota’s is prohibited from selectively 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. MDU has produced its federal and state tax returns in response to discovery requests before other regulatory bodies, but always under confidentiality or protective orders. The Confidential Information 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 the ROI Information and Trial Balances 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. The disclosure of the ROI Information would unnecessarily disclose the financial information of utilities beside Montana-Dakota, which are not at issue in this docket. The ROI Information is calculated for the utility group, which includes not only Montana-Dakota, but also other utilities, such as Great Plains Natural Gas Company, Intermountain Gas Company, and Cascade Natural Gas Corporation. These utilities have not filed a document before the Commission, operated in Montana, or served a Montana resident.

15. The disclosure of the Trial Balances would likewise unnecessarily disclose the financial information of another division of MDU, which is not at issue in this docket. Montana-Dakota is a division of MDU. Accordingly, the general ledger, and the Trial Balances derived

from it, include not only Montana-Dakota's financial information, but the financial information of another division of MDU, Great Plains Natural Gas Company. Great Plains Natural Gas Company should not be required to publicly disclose this information. As stated above, it has not filed a document before the Commission, operated in Montana, or served a Montana resident.

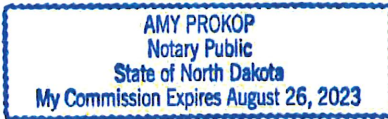
Dated this 10th day of January, 2018.



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

SUBSCRIBED and SWORN to before me this 10th day of January, 2018.

(SEAL)



Notary Public for the State of North Dakota
Printed Name: Amy Prokop
Residing at: Bismarck, ND
My Commission Expires: _____