

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

In re the Application of Montana-Dakota Utilities Co. for Authority to Establish Increased Rates for Natural Gas Service	Docket 2024.05.061 January 14, 2025
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Interim Order 7972c

Background

1. On July 15, 2024, Montana-Dakota Utilities Co. (“MDU”) filed with the Montana Public Service Commission (“Commission”) an application for authority to establish increased rates for natural gas service (“Application”).

2. Concurrent with the filing of its Application, MDU filed an Application for Interim Increase in Natural Gas Rates (“Interim Application”). In its Interim Application, MDU requested an interim revenue increase and requested the associated interim rates increases take effect October 1, 2024. Interim Appl. 1, 3.

3. On August 5, 2024, the Commission issued a Notice of Application and Intervention Deadline that established August 21, 2024, as the intervention deadline for this docket.

4. On August 21, 2024, the Montana Consumer Counsel (“MCC”) filed a timely Notice of Intervention and is therefore a party in this proceeding. Mont. Admin. R. 38.2.2407(2). To date, MCC has not contested MDU’s proposed interim rate increases as set forth in the Interim Application.

5. During a regularly scheduled business meeting on January 14, 2025, the Commission approved MDU’s Interim Application in part, and denied it in part, as discussed below.

Findings of Fact

6. MDU provides natural gas service to approximately 88,900 customers in Montana, operating approximately 1,822 miles of distribution mains and approximately 1,495 miles of service lines. Test. Nicole A. Kivisto 3 (July 15, 2024). MDU's customer base is 88% residential and 12% commercial and industrial. *Id.* MDU's residential customers, as well as certain other customers, use the natural gas provided by MDU primarily for space and water heating. *Id.* at 4.

7. MDU's costs of providing natural gas service are comprised of (1) the cost of gas delivered at the town border stations in its service territory and (2) the cost of distributing the gas from the town border stations to the end use customer. Test. Kivisto 4. The subject of MDU's Application and its Interim Application is the rates associated with the second element, the distribution costs. *Id.*

8. In its Application, MDU requests an annual revenue increase of \$9,400,268, which represents an 11.1% increase based on a 2023 test year ending December 31, 2023, adjusted for known and measurable changes. Test. Kivisto 6. In its Application, MDU requests a return on equity ("ROE") of 10.80% and an overall rate of return ("ROR") of 7.756%. Test. Tammy J. Nygard 3 (July 15, 2024).

9. MDU asserts that its requested annual revenue increase is necessary because its cost of business in Montana is increasing despite its effort to control costs and increase efficiency. Test. Kivisto 6-7. It also asserts its current rates do not reflect the cost of providing natural gas service to its customers. *Id.* at 5.

10. MDU states its approximately \$9.4 million requested increase in annual revenue is driven primarily by the following increases in costs:

	Amount (in millions)
O&M Expenses	\$3.6
Rate Base	\$2.2
System Safety Integrity Program (“SSIP”)	\$1.7
Depreciation	\$1.4
Other	\$0.5
Total	\$9.4

Test. Kivisto 6-7. According to MDU, it is experiencing a \$3.6 million increase in O&M expenses due to increased labor, vehicles and work equipment, and software maintenance costs. *Id.* at 7. MDU also asserts it has made significant investments in its distribution facilities to improve system safety and reliability, and these investments have increased MDU’s depreciation expense. *Id.*

11. In its Interim Application, MDU requests it be granted, on an interim basis, approximately 85% of the annual revenue increase proposed in its Application—it requests it be granted an increase in revenue of \$7,984,385, which represents an overall increase of 10.2% over MDU’s pro forma revenues based on a 2023 test year ending December 31, 2023, adjusted for known and measurable changes. Test. Stephanie Bosch 7, Ex. SB-3 at 1 (July 15, 2024). In conjunction with its requested interim revenue increase of \$7,984,385, MDU requests a ROE of 9.4% and an overall ROR of 7.054%. Test. Tara R. Vesey 20, Ex. TRV-2 (July 15, 2024).

12. The components used to calculate MDU’s requested interim revenue increase of \$7,984,385 vary somewhat from those used to calculate the annual revenue increase requested in the Application. According to MDU, the following were the primary changes:

- The interim rate is based on the 9.4% ROE set in Docket No. D2017.9.79, instead of MDU’s proposed new ROE.
- The revenue associated with the Tax Tracking Adjustment was excluded, as well as Montana Property Tax.

- The depreciation rates were modified to reflect the currently approved depreciation rates from Docket No. 2020.06.076.
- The Regulatory Commission Expense was adjusted to exclude the costs associated with this docket.

Test. Vesey 20.

13. To generate the requested interim revenue increase of \$7,984,385, MDU proposes it charge all customers, except contract rate customers, an additional 28.857% of the amount billed for the combined Basic Service Charge and Distribution Delivery/Demand Charge.¹ Test. Bosch 6. MDU asserts that this will result in individual residential customers using 6.5 dekatherms (“dk”) of natural gas per month seeing an increase of approximately \$5.17 per month on their bills. *Id.* at 7, Ex. SB-3 at 2. MDU proposes to bill customers for any approved interim rate as a separate line item on the customers’ bills. *Id.* at 6.

14. In determining whether a requested interim revenue increase is appropriate, the Commission considers, among other things, whether a utility’s ROR is sufficient to pay its debt costs (i.e., debt interest expense) and earn a fair return for equity investors (i.e., a fair ROE). *See In re MDU’s Appl. for Auth. to Establish Increased Rates for Nat. Gas Service*, Dkt. 2020.06.076, Interim Order 7741d ¶ 9 (Jan. 21, 2021) (“2020 Interim Order”).

15. MDU’s Pro Forma Income Statement for the twelve months ending December 31, 2023, shows an Operating Income of \$3,079,778. Interim Appl. 27 (Rule 38.5.175 at 1). Its pro forma interest expense for the twelve months ending December 31, 2023 is \$2,963,184. *Id.* at 112 (Rule 38.5.169, Statement J at 2). The fact that MDU’s pro forma interest expense is approximately 96% of its pro forma operating income suggests MDU may have trouble paying its debt costs with its revenues absent an interim revenue increase.

¹ Under MDU’s proposal, customers subject to the following tariffs would be affected: Residential Gas Service (Rate 60); Firm General Gas Service (Rate 70); Small Interruptible General Gas Service (Rate 71); Optional Seasonal General Gas Service (Rate 72); Firm General Contracted Demand Service (Rate 74); Transportation Service (Rates 81 and 82); and Large Interruptible General Gas Service (Rate 85). *See* Interim Appl. 15-25 (Appendix A - Tariffs Reflecting Proposed Changes).

16. The Commission evaluates a utility's proposed ROE using a three-pronged standard: (1) the ROE should be commensurate with those of businesses with similar risk; (2) the ROE should be sufficient to maintain the financial integrity of the utility; and (3) the ROE should be adequate to enable the utility to attract investors and capital on reasonable terms. *In re NorthWestern Energy's Appl. for Auth. to Increase Retail Elec. and Nat. Gas Utility Serv. Rates*, Dkt. 2022.07.078, Final Order 7860y ¶ 53 (Oct. 27, 2023) (citing *Fed. Power Comm'n. v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944); *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n.*, 262 U.S. 679, 692–93 (1923)); 2020 Interim Order ¶ 10.

17. MDU reports its ROE for 2022 was 5.97% and its overall ROR was 5.2%. Dkt. 2023.01.001, 2022 Annual Report of MDU 98 (Schedule 27) (Apr. 28, 2023). MDU reports its ROE for 2023 was -0.01% and its overall ROR was 2.29%. Dkt. 2024.01.001, 2023 Annual Report of MDU 97 (Schedule 27) (Apr. 30, 2024). The 2023 test year pro forma financial information provided by MDU indicates it is generating an ROE of 0.18% and an overall ROR of 2.431%. Test. Vesey Ex. TRV-2.

18. The last ROE approved by the Commission for MDU was 9.4%, which resulted generally in an overall ROR of 7.208% for MDU. *In re MDU's Appl. for Auth. to Establish Increased Rates for Nat. Gas Serv.* (“2017 MDU Natural Gas General Rate Case”), Dkt. D2017.9.79, Final Order 7573f ¶¶ 15(b), 18, 28 (June 13, 2018). MDU's last natural gas general rate case resulted in a settlement that did not specify an overall ROR or ROE. *In re MDU's Appl. for Auth. to Establish Increased Rates for Nat. Gas Serv.* (“2020 MDU Natural Gas General Rate Case”), Dkt. 2020.06.076, Final Order 7741e ¶¶ 15, 23 (Feb. 16, 2021). In that case, however, MDU originally sought a 10.20% ROE and a 7.36% overall ROR, and MCC, who represented the interests of the ratepayer,² countered with a proposed ROE of 8.75% and an overall ROR of 6.632%. *Id.*

19. Notably, the ROE and the ROR that MDU has been earning most recently, and is projected to earn, is significantly below what was approved in the

² MCC is a representative of the consuming public. Mont. Code Ann. § 69-2-201 (2023).

2017 MDU Natural Gas General Rate Case. It is also well below even that proposed by MCC in the *2022 MDU Natural Gas General Rate Case*. Further, a negative ROE, or one that is less than 1%, is unlikely to be sufficient to maintain MDU's financial integrity or enable MDU to attract investors and capital on reasonable terms. These facts, and those associated with MDU's debt costs discussed above, make it clear that a notable interim revenue increase for MDU is warranted.

20. As indicated previously, MDU's requested interim revenue increase of \$7,984,385 was calculated using the depreciation rates from Docket No. 2020.06.076. *Supra*, ¶ 12. Those depreciation rates are based on statistical, historical data on the age of the assets in MDU's rate base, known as "aged data."³ The depreciation rates used in Docket No. 2020.06.076 only reflect aged data through December 31, 2015. Test. Larry E. Kennedy 5 (July 15, 2024). That aged data does not account for MDU's investments in rate base assets since the last rate case, which are a major driver of its proposed rates, including its requested interim rates. Because depreciation rates are directly related to the investments MDU has made in its rate base, the Commission finds it more appropriate to calculate the interim revenue increase using depreciation rates derived from the most recent aged data available, which were provided in materials supporting MDU's Application. *See generally* Test. Kennedy.

21. Using the depreciation rates proposed in the Application to calculate the interim revenue increase reduces MDU's requested increase of \$7,984,385 by \$248,539. Data Request Resp. PSC-001(c) (Sept. 6, 2024). The Commission finds a reduction of \$1,100 to MDU's requested interim revenue increase is also warranted to account for vehicle and work equipment expense that was acknowledged by MDU to be erroneously included in its Cash Working Capital adjustment. Data Request Resp. PSC-002(c) (Sept. 6, 2024). These two reductions result in an interim revenue increase of \$7,734,746. *Id.* Such an increase coincides closely with MDU's proposed

³ The Commission notes the depreciation rates proposed in the Application and those used in Docket No. 2020.06.076 were calculated in the same manner: the straight-line method and the Average Life Group (ALG) procedure applied on a remaining life basis. Appl. Ex. LEK-3 at 10, Ex. LEK-4 at 10.

interim ROE of 9.4% and its proposed interim overall ROR of 7.054%. It therefore will allow MDU to generate, on an interim basis, an amount of revenue that permits it to sufficiently recover prudently incurred costs, as well as earn a fair rate of return.

22. As indicated previously, to generate its requested interim revenue increase, MDU proposes it charge all customers, except contract rate customers, an additional 28.857% of the amount billed for the combined Basic Service Charge and Distribution Delivery/Demand Charge. *Supra* ¶ 13. The Commission finds MDU’s allocation methodology reasonable for interim purposes. Applying the methodology to the revised interim revenue increase of \$7,734,746 would result in a charge slightly less than that proposed by MDU—all MDU’s customers, except contract rate customers, would be charged an additional 27.955% of the amount billed for the combined Basic Service Charge and Distribution Delivery/Demand Charge. Based on information provided by MDU, this will result in individual residential customers using 6.5 dk of natural gas per month seeing an increase of approximately \$5.01 per month on their bills.⁴

Conclusions of Law

23. All findings of fact that are properly conclusions of law are incorporated herein and adopted as such.

24. The Commission has the authority to supervise, regulate, and control public utilities. Mont. Code Ann. § 69-3-102. MDU is a “public utility” as that term is used in Mont. Code Ann. § 69-3-102. *See* Mont. Code Ann. § 69-3-101 (defining “public utility”). The Commission also has the authority to temporarily approve rate increases for public utilities. Mont. Code Ann. § 69-3-304. The Commission

⁴ Currently for residential customers, the Basic Service Charge is \$0.30 per day and the Distribution Delivery/Demand Charge is \$1.352 per dk. Appl. App. A at 5. Using an average monthly dk of 6.5 and an average of 30.4 days in a month, the monthly Basic Service Charge would be \$9.12 ($\$0.30 \times 30.4 = \9.12) and the monthly Distribution Delivery/Demand Charge would be \$8.79 ($\$1.352 \times 6.5 \text{ dk} = 8.79$). *See* Data Request Resp. PSC-004 (Sept. 6, 2024). Applying a 27.955% increase to the combined Basic Service Charge and Distribution Delivery/Demand Charge results in an increase of \$5.01 per month ($(\$9.12 + 8.79) \times .27995 = \5.01).

therefore properly exercises jurisdiction over MDU and its request for an interim revenue increase.

25. Procedural due process is flexible and calls for such procedural protections as the particular situation demands. *Geil v. Missoula Irrigation Dist.*, 2002 MT 269, ¶ 58, 312 Mont. 320, 59 P.3d 398. “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* ¶ 61 (citations and internal quotes omitted). The Commission concludes it has provided adequate procedural due process regarding MDU’s Interim Application, including adequate public notice and an opportunity for all interested parties to be heard.

26. The Commission has broad discretion to determine and approve interim rate adjustments pending a hearing or final decision on a rate application. Mont. Code Ann. § 69-3-304; Mont. Admin. R. 38.5.502 through 38.5.505. The criteria for determining appropriate interim rate adjustments are set forth in Mont. Admin. R. 38.5.506. Under that rule, the Commission is to be guided by generally established principles of utility rate regulation. Mont. Admin. R. 38.5.506(1). Under generally established principles of utility rate regulation, utilities must be given the opportunity to earn a fair rate of return on their prudent investments. *Hope Nat. Gas Co.*, 320 U.S. at 603; *Bluefield Water Works & Improvement Co.*, 262 U.S. at 690.

27. In accordance with Mont. Admin. R. 38.5.506, the Commission normalizes and annualizes test year booked net utility operating income and test year average rate base when available. Mont. Admin. R. 38.5.506(2)(a). Further, any adjustments that were made in the most recent Commission general rate order for the utility are made using the methodology and rate of return on equity from that order and applied to the filed test year amounts. Mont. Admin. R. 38.5.506(2)(b). These adjustments may be modified as deemed appropriate by the Commission, however, and the Commission may make other adjustments as it deems appropriate. *Id.*

28. The Commission concludes approving an interim revenue increase for MDU of \$7,734,746 as calculated herein comports with the criteria in Mont. Admin. R. 38.5.506.

29. Rates charged by public utilities must be reasonable and just. Mont. Code. Ann. § 69-3-201. The rates proposed in the Interim Application, as modified by the Commission herein, are a reasonable means of providing interim relief to MDU, and the Commission concludes those rates are reasonable and just for interim purposes.

30. In the event the final decision in this docket establishes rates lower than what is approved by this Interim Order, the difference between the final decision and this Interim Order will be subject to rebate provisions, including interest, to sufficiently protect ratepayers. Mont. Code Ann. § 69-3-304.

Order

31. MDU's Interim Application is APPROVED in part and DENIED in part as discussed above.

32. MDU is authorized to increase its natural gas revenues by \$7,734,746 on an interim basis. The associated interim rate increase is effective for services rendered on and after February 1, 2025.

33. Except for contract rate customers, all customers shall be charged an additional 27.955% of the amount billed for the combined Basic Service Charge and Distribution Delivery/Demand Charge. All interim rates shall be billed as a separate line item on each customer's bill.

34. MDU must submit tariffs that comply with this Interim Order no later than January 29, 2025.

35. This Interim Order is not an endorsement by the Commission of any issues, calculations or methodologies concerning final resolution of the issues in this docket. Nothing in this Interim Order precludes the Commission from adopting in a subsequent interim order or final order a revenue requirement, or any other item approved in this Interim Order, different from that contained in this Interim Order.

If the final order in this docket approves a revenue requirement lower than the revenue requirement established by this Interim Order, the difference will be rebated to customers with interest as determined in the Commission's final order.

DONE and DATED January 14, 2025, by the Montana Public Service Commission, by a vote of 4 to 1, with Commissioner Pinocci dissenting.

BRAD MOLNAR, President
JENNIFER FIELDER, Vice President
RANDALL PINOCCI, Commissioner, dissenting
DR. ANNIE BUKACEK, Commissioner
JEFF WELBORN, Commissioner

CERTIFICATE OF SERVICE

I certify that on the January 14, 2025, a true and accurate copy of the foregoing document was served by email to the following:

MONTANA-DAKOTA UTILITIES
mgreen@crowleyfleck.com
For MDU

MONTANA CONSUMER COUNSEL
jbrown4@mt.gov
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EMAIL LIST(S):
Notification of Montana Dakota Utilities Filings
Commission Orders

By: /s/ Tarin Slayton
Tarin Slayton
Montana Public Service Commission