

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Complaint of)	NG16-006
MONTANA-DAKOTA UTILITIES CO., a)	
Division of MDU Resources Group, Inc.,)	RESISTANCE TO MOTION
Regarding South Dakota Intrastate Pipeline)	TO DISMISS
Company's Rates for Pipeline Transportation)	
Service.)	

South Dakota Intrastate Pipeline Company has filed a Motion to Dismiss the Complaint previously filed by Montana-Dakota Utilities Co. ("Montana-Dakota") in the above captioned docket. Montana-Dakota resists the Motion to Dismiss and urges the Commission to correctly and properly assume its role to investigate the rates of South Dakota Intrastate Pipeline Company as provided for in statute.

RELEVANT STATUTES

49-34A-13. Whenever there is filed with the Public Utilities Commission any schedule modifying or resulting in a change in any rates then in force, together with the filed statements of facts, expert opinions, substantiating documents, and exhibits, supporting the changes requested, the commission may upon complaint or may upon its own motion, upon reasonable notice conduct a hearing to determine whether the rates are just and reasonable.

49-34A-26. On its own motion or upon a complaint made against any public utility, by the governing body of any political subdivision, by another public utility, or by any twenty-five consumers of the particular utility that any of the rates, tolls, tariffs, charges, or schedules or any joint rate or any regulation, measurement, practice, act or omission affecting or relating to the transmission, delivery or furnishing of natural gas or electricity or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the Public Utilities Commission shall proceed, with notice, to make such investigation as it may deem necessary and take such action as deemed necessary and appropriate.

ARGUMENT

Montana-Dakota has alleged that the tariff rate in place currently for South Dakota Intrastate Pipeline Company is not reasonable. Montana-Dakota doesn't expect that the Commission will find that the rate is unreasonable based solely on the allegations in the

Complaint. Montana-Dakota rather expects the Commission to investigate whether those rates are unreasonable and take such action as necessary and appropriate.

South Dakota Intrastate Pipeline Company by its Motion to Dismiss seeks to read Sections 13 and 26 separate from one another as if somehow they were not part of the same regulatory and statutory framework conceived by the Legislature and placed into effect by the Commission. That reading is simply incorrect. The Public Utilities Commission has a statutory obligation under both sections of the code to ensure that rates in place are reasonable.

South Dakota Intrastate Pipeline Company enjoys a situation in which no party other than Montana-Dakota pays its rate per services. There literally is no other party out there in a position to know, complain or ask for an investigation into SDIP rates. Montana-Dakota is it, the only one.

South Dakota Intrastate Pipeline Company also enjoys a situation in which the tariff rate on file matches the contractual agreement with its single customer. There is no impetus for South Dakota Intrastate Pipeline Company to come in for a rate case based on the facts alleged. It is almost impossible to conceive of a filing made by South Dakota Intrastate Pipeline Company that would increase its rates for service. The depreciation on the South Dakota Intrastate Pipeline Company facility would theoretically seem to overwhelm any investment made in the pipeline. Without investigation by the Commission it is highly likely that the rate will stand throughout the service life of the line.

South Dakota Intrastate Pipeline Company seeks to have the Commission short circuit the complaint process outlined in the statute and on a Motion to Dismiss determine that no investigation is necessary. Based on what facts? South Dakota Intrastate Pipeline Company offered no factual response to the Complaint nor does it offer an Affidavit of facts regarding the rate which is in place and how it might be supported by law or facts. SDIP has chosen to stand only on legal argument, seeming to say in essence, "Nothing to see here folks, just move along. No investigation necessary or warranted."

The facts alleged in the Montana-Dakota Complaint should be investigated by the Commission. The sections of code implicated here should not be read separately and can easily

be read together to determine that the Commission should go ahead and exercise its statutory authority to investigate the rates.

Dated this 21 day of September, 2016.

BY: 
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CERTIFICATE OF SERVICE

21 Brett Koenecke of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 21 day of September 2016, he electronically served, a true and correct copy of the foregoing in the above captioned action to the following at his last known address, to-wit:

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