

STATEMENT OF ISSUES

1. **DID THE CIRCUIT COURT AND THE PUC ERR IN HOLDING THAT MONTANA-DAKOTA LACKED STANDING TO INITIATE A PROCEEDING UNDER THE LARGE LOAD STATUTE, SDCL § 49-34A-56?**

The Circuit Court and the Commission held that Montana-Dakota lacked standing, notwithstanding Montana-Dakota's status as a public utility doing business in close proximity to North Central's new facility with which North Central communicated load information and entertained rate offers. Kehn vs. Hoeksema, 524 NW2d 879 (SD 1994).

2. **DID THE CIRCUIT COURT AND THE PUC ERR IN HOLDING THAT THE LARGE LOAD STATUTE MAY ONLY BE INVOKED BY THE CUSTOMER?**

The Circuit Court and the PUC held that only the large load customer may petition for relief under the large load statute notwithstanding lack of specific statutory mention of a procedure to invoke the statute. Willrodt vs. NorthWestern Public Service Co., 281 NW2d 65 (SD 1979); *Matter of NorthWestern Public Service Company*, 1997 SD 35, 560 NW2d 925.

3. **DID THE CIRCUIT COURT AND THE PUC ERR IN HOLDING THAT SUMMARY DISPOSITION BY THE PUC WAS APPROPRIATE?**

The Circuit Court and the Commission held that summary disposition was appropriate, notwithstanding MDU's evidence that the contracted minimum demand was in excess of 2,000 kilowatts and the customer's manager exchanged load information and entertained rate offers from both Montana-Dakota and FEM. *Hall vs. State ex rel South Dakota Dept. of Transp.*, 2006 SD 24, 712 NW2d 22 (2006).