

Service Date: April 3, 1978

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	
of the City of Helena for	)	DOCKET NO. 6498
Authority to Establish Increased	)	
Rates for Water Service.	)	ORDER NO. 4335a

APPEARANCES

FOR THE APPLICANT:

C. W. LEAPHART, JR., City Attorney, 1 North Last Chance Gulch, Helena, Montana  
59601

FOR THE PROTESTANTS:

GEOFFREY L. BRAZIER, Montana Consumer Counsel, 34 West Sixth Avenue, Helena,  
Montana 59601

PATRICK FLAHERTY, Transportation Adviser, Montana Consumer Counsel, 34 West  
Sixth Avenue, Helena, Montana 59601

INTERVENORS:

JAMES LARSON, Administrator for Veterans Administration

FOR THE COMMISSION:

ROB SMITH, Staff Attorney

DENNIS CRAWFORD, Deputy Administrator, Utility Division

BEFORE:

GORDON E. BOLLINGER, Chairman  
P. J. GILFEATHER, Commissioner  
JAMES R. SHEA, Commissioner  
THOMAS J. SCHNEIDER, Commissioner

### FINDINGS OF FACT

#### General:

1. The City of Helena, Montana, is a municipal corporation duly organized and existing under and by virtue of the laws of the State of Montana, doing business as a proprietary municipal water utility company under the laws of Montana.

2. On March 31, 1977, the City of Helena (hereinafter designated City, Helena Water Department, or Applicant) applied to this Commission for authority to increase its rates and charges for water service. The application sought authority to increase rates in order to recover all costs of providing water service to customers. As part of its application, Helena Water requested an interim rate increase.

3. The application to increase rates on an interim basis was granted as requested, by Order No. 4335. That order was dated April 12, 1977 and increased the rates on water delivered during the next full billing period after May 1, 1977.

4. The total revenue increase requested by the Applicant in its permanent rate increase request is \$410,000 per year. As part of the relief requested, the Helena Water Department petitioned for authority to modify its rate structure to reduce the number of its rate blocks to four and reduce its summer sprinkling discount for residential customers from 30% for six months, to 15% for four months. It also sought approval of a proposed utility contract between the Veterans Administration Center at Fort Harrison, Montana, and the City of Helena.

5. Notice of full hearing on the merits of this proceeding was given by this Commission on May 16, 1977 by publishing the Notice of Public Hearing in the Independent Record, a Helena newspaper; by sending the Notice to one television and four radio stations in the Helena area as a news item; and by sending the Notice to the Helena City Manager, the City of Helena's attorney, Mr. Wesley Wertz, Mr. Morley Cooper, and Mr. Geoffrey L. Brazier, Montana Consumer Counsel.

6. The public hearing on the permanent rate increase was held in the Conference Room at the offices of the Montana Public Service Commission, 1227 Eleventh Avenue, Helena, Montana, starting at 10:00 a.m. on Tuesday, June 21, 1977.

7. Three witnesses testified on behalf of the Helena Water Department: Harold L. Eagle, P.E., Morrison-Maierle, Inc., Consulting Engineers; Richard L. Morgan, CPA, formerly of Galusha, Higgins & Galusha; and Richard Nisbet, Public Utilities Director of the City of Helena, Montana.

Expenses:

8. For its test year actual expenses, The Helena Water Department submitted the following figures (set forth on page 5-2 of its Exhibit #1)

THE HELENA WATER DEPARTMENT

MAINTENANCE & OPERATION

Salaries	\$ 163,976
Employee Benefits	30,614
Gas, Oil & Lubricants	5,188
Telephone	1,533
Conference & Education	1,223
Utilities	21,828
Water Purchased	9,950
Repair & Improvement	16,792
Chemicals	8,709
Water Analysis	4,125
Sundry	5,558
Equipment & Rent	1,753
Administration Fee	69,357
Contract Payment	0
Insurance	6,472
Public Utility Director Expense	0
Interest on Warrants	<u>4,749</u>
Total Maintenance & Operation	\$351,827

ACCOUNTING COSTS

Salaries	\$ 43,201
Employee Benefits	7,574
Printing & Advertising	4,747
Telephone	640

Rent	6,000
Office Supplies	686
Audit & Accounting	5,809
Miscellaneous	1,935
Public Utility Director Expense	<u>0</u>
Total Accounting Costs	\$ 70,592
TOTAL OF MAINTENANCE & OPERATION AND ACCOUNTING	\$422,419
BOND RETIREMENT	140,482
REPLACEMENT COSTS	<u>87,279</u>
ACTUAL COSTS FOR 1975-76 YEAR	\$650,180

9. To the 1976 actual expense results, the City proposed that adjustments be made for what it characterized as "known changes" as set forth under the column entitled "1977 Projected" in Table 5-A on page 5-2 of Exhibit #1. Those resulting expenses are as follows:

MAINTENANCE & OPERATION

Salaries	\$195,635
Employee Benefits	37,166
Gas, Oil & Lubricants	5,499
Telephone	1,625
Conference & Education	1,296
Utilities	24,887
Water Purchased	9,950
Repair & Improvement	28,966
Chemicals	8,709
Water Analysis	4,000
Sundry	5,891
Equipment & Rent	1,859
Administration Fee	67,466
Contract Payment	1,100
Insurance	15,500
Public Utility Director Expense	10,915
Interest on Warrants	<u>17,500</u>
Total Maintenance & Operation	\$437,964

## ACCOUNTING COSTS

Salaries	\$ 51,542
Employee Benefits	9,196
Printing & Advertising	5,032
Telephone	678
Rent	6,000
Office Supplies	727
Audit & Accounting	6,158
Miscellaneous	2,051
Public Utility Director Expense	<u>2,729</u>
Total Accounting Costs	\$ 84,113
TOTAL OF MAINTENANCE & OPERATION AND ACCOUNTING	\$522,077
BOND RETIREMENT	142,905
REPLACEMENT COSTS	<u>56,500</u>
PROJECTED COSTS FOR 1976-77 YEARS	\$721,482

10. The Consumer Counsel recommended the following schedule of expenses be adopted by the Commission:

## MAINTENANCE &amp; OPERATION

Salaries	\$176,110
Employee Benefits	32,880
Gas, Oil & Lubricants	5,499
Telephone	1,625
Conference & Education	1,296
Utilities	24,887
Water Purchased	9,950
Repair & Improvement	28,966
Chemicals	8,709
Water Analysis	4,000
Sundry	3,461
Equipment & Rent	1,859
Contract Payment	500
Insurance	15,500

Public Utility Director Expense	<u>10,915</u>
Total Maintenance & Operation	\$326,157
<b>ACCOUNTING COSTS</b>	
Salaries	\$ 46,398
Employee Benefits	8,134
Printing & Advertising	5,032
Telephone	678
Office Supplies	727
Audit & Accounting	6,158
Miscellaneous	2,051
Public Utility Director Expense	<u>2,729</u>
Total Accounting Costs	\$ 71,907
<b>TOTAL OF MAINTENANCE &amp; OPERATION AND ACCOUNTING</b>	<b>\$398,064</b>
<b>BOND RETIREMENT</b>	<b>142,905</b>
<b>REPLACEMENT COSTS</b>	<b><u>36,000</u></b>
<b>PROJECTED COSTS FOR 1976-77 Year</b>	<b>\$576,969</b>

11. The Commission is in agreement with both the Consumer Counsel and the City, and finds that the following expenses are reasonable:

**MAINTENANCE & OPERATION**

Gas, Oil & Lubricants	\$ 5,499
Telephone	1,625
Conference & Education	1,296
Utilities	24,887
Water Purchased	9,950
Repair & Improvement	28,966
Chemicals	8,709
Water Analysis	4,000
Equipment & Rent	1,859
Insurance	15,500
Public Utility Director Expense	10,915

## ACCOUNTING COSTS

Printing & Advertising	5,032
Telephone	678
Office Supplies	727
Audit & Accounting	6,158
Public Utility Director Expense	2,729
<b>BOND RETIREMENT</b>	<b>142,905</b>

12. The two initial items under both the M & O and ACCOUNTING COSTS sections of the Applicant's Statement of Expenses, are Salaries and Employee Benefits. Two aspects of these entries are disputed: 1) One salary in the Accounting Office; and 2) The amount of cost-of-living and longevity increases to Helena Water Department employees.

As admitted by the City's witness Mr. Morgan, the Accounting Office salary is overstated by \$7,200 and the Employee Benefits by 18.7% of that (Tr. pps. 87 & 88). The Commission finds the subtraction of these two amounts a reasonable adjustment.

The Commission rejects the Consumer Counsel's contention (Proposed Finding of Fact No. 15) that the Commission should exclude cost-of-living and longevity increases in excess of the 7.4% increase for the year ending June 30, 1977, recognized by the U.S. Department of Labor. That position is rejected as: 1) Assuming facts not in the record, and 2) Requiring the Commission to interfere with the management decisions of the Applicant.

13. Regarding the "Sundry" expense item discussed by the Consumer Counsel in his Proposed Finding of Fact No. 18, the Commission is in agreement with and adopts that proposed finding, with the following modification:

## MAINTENANCE &amp; OPERATION

Sundry Expense (Test yr. 75/76)	\$ 5,558
Rate Case Expense	<u>(3,035)</u>
	\$ 2,523
Estimated Cost Increase Per Year of 6%	<u>151</u>
	\$ 2,674
Amortization of Rate Case Expense 3 yrs.	<u>1,011</u>
TOTAL SUNDRY EXPENSE	\$ 3,635

## ACCOUNTING COSTS (Test Yr. 75/76)

Miscellaneous Expense	\$ 1,935
Rate Case Expense	<u>(611)</u>
	\$ 1,324
Estimated Cost Increase Per Year of 6%	<u>79</u>
	\$ 1,403
Amortization of Rate Case Expense 3 yrs.	<u>203</u>
	\$ 1,606

The Commission used the above method, as it found non-recurring rate case expenses in both the MAINTENANCE & OPERATION Sundry expense entry, and the ACCOUNTING COSTS Miscellaneous expense entry. While agreeing with the principle of MCC's finding #18, the Commission was unable to duplicate its calculations.

14. Regarding the MAINTENANCE & OPERATION expense entry for the Administration Fee, the Commission rejects Consumer Counsel's Proposed Finding #16, and adopts the City's figure. However, an adjustment should be made to reduce the Administration Fee for the test year 75/76 by the amount of the Public Utility Director Expense of \$10,915. It is the Commission's finding that the adoption of the Administration Fee--properly adjusted--as an expense of the Helena Water Department is properly a management decision.

15. Regarding the MAINTENANCE & OPERATION expense item Contract Payment, the Commission finds that the contract payment is for road maintenance by the U.S. Forest Service in the Ten Mile Creek area. The annual charge would be \$500 per year and the reason that \$1,100 is included in projected year 1977 is that the payment for actual year 1976 was

missed (Tr. p. 98). Therefore, the Commission accepts the Consumer Counsel's adjustment--in Proposed Finding of Fact No. 19--to \$500 per year.

16. The City includes in its expenses, funds for the payment of Interest on Warrants, and funds to re-establish Series "E" bond reserve requirements (Applicant's Ex. 1, Table 5-C). The Commission agrees that the payment of these two items is a proper and reasonable expense of the Helena Water Department. Consequently, Consumer Council's Proposed Findings of Fact Nos. 20 and the applicable portion of 14 are rejected.

17. The Helena Water Department seeks funds to retire its operating deficit (Applicant's Ex. 1, Table 5-C). The Commission rejects those expenses as beyond its power to grant.

18. The Helena Water Department has included as a charge to its water accounting department the sum of \$6,000 for rent of an office building on North Benton Avenue. As disclosed by answers to Consumer Counsel's interrogatory #11 and cross-examination, the building was formerly a gasoline service station which was purchased by the City of Helena with revenue sharing funds for \$30,000 in 1975. The City did not produce any document which evidenced an obligation owed by the City of Helena to any other entity or owed by the Water Department to the City of Helena (Tr. pps. 103 & 104). The Commission therefore finds that the proposed rent charge is not an actual and necessary cost for the benefit of the water customers of the City of Helena and deletes that charge from the assignable operating expenses of the City.

19. The Commission considers \$174,426 a reasonable Allowance for Replacement. This figure is the average of: 1) Twice the 1975-1976 actual replacement costs of \$87,279--\$174,558; and 2) the amount projected as that available for replacement in 1978-1979, \$174,294. The former figure was presented by the city as a reasonable amount for replacement (Ex. 1 ' 5.06). The second figure was presented as a "tentative assignment" of revenue available for replacement (Ex. 1, Table 5-E). The Commission finds that although its adopted replacement figure is not as well supported as it would like, this figure is more solidly supported than any other in this docket.

20. Collecting Findings 11 through 19, the Commission finds the following as appropriate and allowable expenses:

MAINTENANCE & OPERATION

Salaries	\$195,635
Employee Benefits	37,166
Gas, Oil & Lubricants	5,499
Telephone	1,625
Conference & Education	1,296
Utilities	24,887
Water Purchased	9,950
Repair & Improvement	28,966
Chemicals	8,709
Water Analysis	4,000
Sundry	3,685
Equipment & Rent	1,859
Administration Fee	58,442
Contract Payment	500
Insurance	15,500
Public Utility	10,915
Interest on Warrants	<u>17,500</u>
Total Maintenance & Operation	\$426,134

ACCOUNTING COSTS

Salaries	\$ 44,342
Employee Benefits	7,846
Printing & Advertising	5,032
Telephone	678
Rent	0
Office Supplies	727
Audit & Accounting	6,158
Miscellaneous	1,606
Public Utility Director Expense	<u>2,729</u>
Total Accounting Costs	\$ 69,118

TOTAL MAINTENANCE & OPERATION & ACCOUNTING	\$495,252
BOND RETIREMENT	142,905
SERIES E. RESERVE REQUIREMENT	8,000
ADJUSTMENT, FINDING OF FACT #29	34,000
ADJUSTMENT, FINDING OF FACT #31	<u>2,400</u>
	\$682,557
ALLOWANCE FOR REPLACEMENT	<u>174,426</u>
	\$856,383

Revenues, Growth, & Normalization:

21. No specific evidence was entered in the record by either party adjusting the Applicant's test year figures for more "normal" weather conditions. Although witness Eagle testified generally that the year 1975 was wetter than normal, and 1976 was dryer than normal, no attempt was made to quantify either of these variations.

22. No party made any studies of growth trends in sales or revenue of the Helena Water Department, nor did any party offer any evidence of the demand elasticity and how it would affect consumption and revenues under the proposed higher water rates.

23. Based upon answers to interrogatories adjusted to recapture sewer service revenue (Ex. CC #1, Answer to #5) and upon late-filed data (City of Helena 6/28/77 letter, items 4 & 5) the cash revenue from water service for each of the years ending June 30, 1972, June 30, 1973, June 30, 1974, June 30, 1975, and June 30, 1976 was \$476,475, \$522,402, \$527,119, \$529,635 and \$518,785 respectively.

24. In its Table 5-E on page 5-6 of its Exhibit #1, The Helena Water Department attempted to project revenue for the system on the assumption that the revenue increase requested will be granted. The growth rate relied upon for Table 5-E was the difference in the system's customers between fiscal year 1971-72 and 1975-76, shown on Table 1-F of the Helena Water's Exhibit #1. This is an unrealistic basis for projecting growth, because, as the narrative below Table 1-F on page 1-6 states, "The 'apparent' decrease in the number of customers from 1974 to

1976 was due to the removal of a significant number of water accounts from the records for the Urban Renewal Area...". A more realistic basis for projecting growth or ascertaining what system revenues would have been in a "normal" test year would be to rely on the data derived from responses to Consumer Counsel's request #6 for late-filed data. According to those figures, the net new accounts of Helena Water from July 1, 1971 to June 30, 1976 were 668, reflecting an average of new accounts per year of 134 or a growth rate of approximately 2% per year.

25. Growth trends in water sales for Helena Water are difficult to measure because of variations in climatic conditions in recent years. However, responses to Consumer Counsel's request #4 for late-filed data and his data request #5, --adjustments to recapture sewer revenue-- disclose that system cash revenue for fiscal year ending June 30, 1972 was \$476,475, whereas it was \$529,635 for fiscal year ending June 30, 1975 and \$518,785 for fiscal year ending June 30, 1976. If trended, the growth in revenue would have been approximately \$13,300 per year over the four-year period and \$8,500 per year over the five-year period.

The Commission prefers to project growth in harmony with the trend over the four-year period, because it involves less impact of climatic variations, because the present calendar year is one involving unusually dry climatic conditions which tend to stimulate unusually high water sales, and because the trend in new accounts as a result of population growth is clearly up. Projecting from fiscal year ending June 30, 1975, this means adjusted revenue for the test year of \$556,000. The Commission adopts the two upward revenue adjustments and will use the amount of \$556,000 as its base revenue for the test year.

26. The use of the adjusted revenue figure of \$556,000, results in an upward adjustment of \$37,215 to the Applicant's actual test year revenues (\$518,785).

27. The adjustments to test year revenues (Finding #26) stem from: 1) 2% per year customer growth, (response to Consumer Counsel's request #6 for late-filed data) and 2) Added sprinkling water sales resulting from climatic adjustments.

The amount of the adjustment reflecting growth is \$8,800, i.e.,  $.02 \times 440,000$ . This figure is the result of taking 2% growth times \$440,000 anticipated 1976-1977 revenues from water sales to customers (Applicant's Ex. 1, ' 5.02).

The remainder of the \$37,215 adjustment, \$28,415, would be revenues from increased sprinkling water sales, as a result of climatic adjustments. This water would be sold at a 30% discount.

Examination of the above-enumerated components of the revenue adjustment shows, the increased revenue figures entail increased sales of water. Neither party having attempted to adjust expense figures for the production of this water, the Commission is forced to make its own findings from the extant record.

28. To yield the revenue adjustment of \$37,215, the Applicant would be required to produce and sell an additional 150,340 hundred cubic ft. (ccf) of water to meet the sprinkling demand, and 32,580 ccf to meet the demand from increased growth. These two figures total 182,920 ccf.

29. In order to estimate the cost of producing the additional 182,920 ccf of water, the Commission made the following multi-step calculation:

1. A graph was drawn, using Total Costs for Missouri River water as its vertical axis, and Plant Production at the Treatment Plant as its horizontal axis.
2. The City estimated that the cost of producing the test year water volume of 85,008 ccf at the Missouri River Treatment Plant was \$73,144 (Ex. 1, Table 6-A). This figure was plotted.
3. The City also estimated the annual cost to operate the Treatment Plant at 75% capacity as 800,000 ccf., of which 640,000 ccf would be available for sales to customers. This figure was also plotted.
4. As the two figures are mixes of fixed and variable costs, a linear trend line is plotted.
5. The Normal average plant production figure is then located on that line; the corresponding cost is \$107,000.

The result of this calculation is a \$34,000 upward adjustment to test year expenses. The Commission finds this adjustment to be reasonable and proper.

30. The Commission finds that the 134 (2%) additional customers will impose additional costs on the Helena Water Department, for billing, metering, collecting revenues, etc.

31. The Applicant proposes a \$4.50 minimum bimonthly charge for 500 cubic feet (Ex. 1, p. 8-1). The Consumer Counsel proposes \$3.00 for that charge. The Commission accepts the Consumer Counsel's estimate of \$1.50/mo. as an appropriate minimum customer expense. The Commission finds that this results in a reasonable upward expense adjustment of \$2,400 for the year for the 134 new customers.

32. The Commission finds that the net effect of the adjustment proposed by the Consumer Counsel is negligible--1.6% actual revenue increase. However, the Commission adopts these adjustments, as they give a more accurate picture of the volume of water the Helena Water Department sells, and consequently a more accurate picture of the type of rates needed to produce the required amount of revenue.

#### Miscellaneous

33. The Applicant proposes a 15% sprinkling discount to residential customers, for the months May, June, July, and August. During this period, utilization of the Helena Water system is at its peak. While not endorsing a policy of reduced prices during the peak usage period, the Commission does recognize the countervailing considerations. Therefore, the Commission finds the Helena Water Department's proposed sprinkling discount reasonable and proper in this proceeding, with a caveat.

Any future rate proposals of the City of Helena should deal in greater depth with the issue of customer discounts, especially as that issue concerns plant capacity, demand elasticity, detailed costs of Missouri River water, and the adequacy of system pressure to meet fire fighting needs at the time of peak system demand.

34. The Applicant proposes that its existing 13 block rate structure be modified to 4 blocks. The Commission finds this a reasonable and proper simplification, and concurs in the Applicant's effort to compute an "end cost" for the fourth block. The Commission finds this a

commendable attempt to insure that the fourth block rate covers the variable costs associated with the production of that water.

35. The customer sampling technique used by the consultant was designed to obtain customer usage data which could then be used to develop a model to calculate anticipated revenues from various rate schedules. The Commission generally concurs in the technique employed. The Commission rejects Applicant's claim that more than a 20% sample was used for residential and small commercial accounts. Although at least every fifth account or more was recorded, (Tr. p.23), only four of a possible 6 meter readings for every account were recorded (Tr. p. 23). Thus the sample size was somewhat less than 20% for residential and small commercial meter readings, since only 2/3 of the readings were recorded.

The total number of large commercial users sampled was 190. The total sample size of all users was 1706 of a possible 7,060. This sample size in most instances is more than sufficient for a determination of consumption by individual customers. For comparison, Montana Power Company proposes to meter only 200 of its 180,000 electrical customers in its present load study.

36. On the issue of hydrants, Consumer Counsel's Proposed Finding #23 is rejected. Specifically, the Commission finds the following: a) The decision to charge the Water Department rather than the Fire Department for fire hydrants is properly a management decision of the City of Helena (Tr. p. 196); and b) As Community Development funds were and will be used in post-test years, that item has been removed from those budgets (Tr. p. 201 & 202).

37. Regarding the City's contract with the Veteran's Administration Center at Fort Harrison, the Commission is satisfied that to the extent it has jurisdiction, the contract is reasonable, in light of the particular circumstances of the Center, i.e. maintenance of its own lines, economies of scale, a single meter, etc. (Tr. pps. 115-149, 157-159).

38. The \$300,383 additional annual revenue from water sales ordered below is the difference between the \$856,383 Revenue Requirement in Finding of Fact #20, and the \$556,000 adjusted test year Revenue figure in Finding of Fact #25. This amount is an increase in total revenues of \$54,783 above the amount granted in the April 12, 1977, Interim Rate Increase. The

Commission notes that this larger amount of total revenues will be derived from a larger amount of water sales, thus mitigating the effect of the increase on individual water users.

RULINGS ON PROPOSED FINDINGS OF FACT  
OF THE MONTANA CONSUMER COUNSEL

The Applicant did not request that this Commission make a specific ruling on each Finding of Fact pursuant to the provisions of R.C.M. 1947, 82-4213(1) and ARM 1-1.6(2)-P6200(2). Therefore, the following rulings pertain only to the findings of fact of the Montana Consumer Counsel, who made such a request.

In substance, the Commission adopts Proposed Findings of Fact 1-9, as set forth in the Commission's General Findings, 1-7 and 21-25.

Proposed Findings 10 & 11 are accepted and incorporated in Commission Findings 8 & 9.

The Commission rejects Proposed Finding #12 as calling for illegal interference in the management decisions of the Helena Water Department.

Consumer Counsel's Proposed Finding #13 is emphatically rejected. In fact, the City's answer to Consumer Counsel's interrogatory says:

#8 Explanation of Repair & Improvement Expense and Replacement Costs Repair and improvement expenditures are made to maintain the City of Helena Water Department's fixed assets, such as trucks, buildings, and office equipment, in an efficient operating condition. The expenses reflected in the account neither add value to the property nor materially prolong its useful life. (Emphasis supplied) Replacement costs are amounts expended to maintain the actual water distribution and transmission system and purchase additional fixed assets. Examples of the outlay include; water mains, fire hydrants, water meters, crosses, tees, valves, and new trucks.

Also No. Tr. P. 108.

Commission Findings 16 and 17 address Proposed Finding 14.

Commission Findings 12, 14, 13, 15, 16, & 18 address Proposed Finding Nos. 15, 16, 18, 19, 20 & 21, respectively.

The Commission concurs in the result, if not the reasoning, of Proposed Finding #17.

The Commission rejects Consumer Counsel's Proposed Finding #22. The Commission is satisfied that the City's replacement program is clear to the responsible parties, many of whom participated in the hearing.

Commission Finding #36 addresses Consumer Counsel's Proposed Finding #23.

Consumer Counsel's Proposed Finding of Fact #24 is rejected as assuming facts not in the record, and further seems to be in conflict with Proposed Finding #8.

Consumer Counsel's Proposed Finding #25 is rejected; it assumes facts not in the record.

The Commission admits, but finds irrelevant in this proceeding, Consumer Counsel's Proposed Findings #26 and 27.

Consumer Counsel's Proposed Finding #28 is rejected, cf. Commission Finding #37 and Tr. pps. 145-149 & 157-159.

Regarding Consumer Counsel's Proposed Finding #29, the Commission agrees that tax money will finance any improvements at Fort Harrison, but finds that the improvements planned at Fort Harrison are reasonably probable, not speculative.

Consumer Counsel's Proposed Findings 30 & 31 are addressed in Commission Findings 35 & 20, respectively.

#### CONCLUSIONS OF LAW

1. The Helena Water Department's rates are subject to the jurisdiction of this Commission under Section 70-101, Revised Codes of Montana, 1947, et seq.

2. "It was the intention of the legislature to go no further than to provide that, within the limited sphere of its jurisdiction, the Public Service Commission may make reasonable regulations which the city must heed, and to that extent only is the authority of the city superseded. It was not intended to take from the city the active management of its water plant, or the authority to appoint the proper officers and employees to operate it, or to interfere with such

officers in the proper discharge of their duties." Public Service Commission v. City of Helena, 52 M 527, 541, 159 P 24.

3. "If this utility has lost money during the past several years, the fact remains that this Commission in determining whether or not a rate is reasonable or unreasonable cannot take into consideration the past losses of the utility, "Re Great Northern Utilities Company, (1938) Montana Public Service Commission, 26 P.U.R. (N.S.) 393, 397.

4. The increased rates approved herein are necessary to the continued operation of the Helena Water Department. The rate levels approved herein are reasonable and just.

#### ORDER

IT IS ORDERED that the Applicant shall submit for Commission approval a schedule of rates and charges which will produce a total additional annual revenue from normalized water sales, of \$300,383. This amount shall be in lieu of, not in addition to, the interim rate increase granted April 12, 1977.

IT IS FURTHER ORDERED that the city shall submit to the Commission a schedule of rates and charges that reflects the aforementioned four block rate schedule and 15% sprinkling discount.

IT IS FURTHER ORDERED that the first rate block--the minimum charge--of the four block structure shall be \$4.00 bimonthly, with the rest of the allowed revenue increase spread equally over the other three blocks.

IT IS FURTHER ORDERED THAT that Applicant shall submit to the Commission the amended contract, reflecting the appropriate increases, with the Veteran's Administration Center, Fort Harrison, Montana.

IT IS FURTHER ORDERED that the new schedules of rates and charges shall be effective for meter readings taken on and after April 3, 1978.

DONE IN OPEN SESSION this 3rd day of April 1, 1978.

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GORDON E. BOLLINGER, Chairman

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P. J. GILFEATHER, Commissioner

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THOMAS J. SCHNEIDER, Commissioner

ATTEST:

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JAMES R. SHEA, Commissioner

Madeline L. Cottrill  
Commission Secretary

(SEAL)

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing within thirty (30) days from the service of this Order a petition for review pursuant to Section 32-4216, R.C.M. 1947.