

Service Date: March 7, 1973

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

In the Matter of the Application of) DOCKET NO. 6542
CITY OF BILLINGS, MONTANA for author-)
ity to increase its rates and charges) ORDER NO. 4406
for water service furnished at)
Billings, Mont a and vicinity.)

APPEARANCES

FOR THE APPLICANT:

Calvin A. Calton, Attorney at Law, Suite 201, Hedden Empire
Building, 208 North 29th Street, Billings, Montana, representing
the City of Billings.

FOR THE PROTESTANTS:

Geoffrey L. Brazier, Attorney at Law, Montana Consumer Counsel,
34 West 6th Avenue, Helena, Montana

John C. Doubek, Attorney at Law, representing the Montana
Consumer Counsel, 34 West 5th Avenue, Helena, Montana

FOR THE COMMISSION:

Robert F. W. Smith, Counsel
James P. Dwyer, Rate Analyst, Utility Division
Judy Curtis, Economist, Utility Division

BEFORE:

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

FINDINGS OF FACT

1. On October 17, 1977, the City of Billings (Applicant, City, or CB) petitioned this Commission for authority to increase the rates charged its water utility customers by an average of \$1.636 million per year for the period January, 1978 through June, 1980.

2. The Commission received a petition from CB requesting interim or temporary rate-relief equal to \$1.311 million or approximately 80 percent of the proposed permanent increase on December 22, 1977.

3. The Montana Consumer Counsel (MCC) has participated on behalf of utility consumers in this docket since the inception of these proceedings.

4. Following Commission approval on January 9, 1978, the County Water District of Billings Heights (District) assumed the role of intervenor in this docket.

5. A hearing on the Applicant's request for a temporary rate increase was scheduled for January 23, 1978 and duly noticed.

6. On January 20, 1978, the Applicant filed an objection to the conduct of any hearing on its interim petition and a memorandum in support of the objection. Counsel for the City argued therein that the Applicant was experiencing difficulties in preparing evidence to support the interim request in the absence of "clear and forthright guidelines."

7. The hearing on temporary rates scheduled for the following Monday, January 23, 1978, was canceled and rescheduled for

February 10, 1978.

8. A public hearing on CB's request for an interim water rate increase was held on February 10, 1978 in the Conference Room of the Public Service Commission, 1227 11th Avenue, Helena, Montana.

9. Based on projections of revenues and expenses through June, 1980, witnesses for the City of Billings testified to an anticipated monthly deficit which would average \$84,400 for the Water Utilities Department were no rate relief granted. Testimony suggested that the deficit would manifest itself in reduced quality of service to customers, partially as a result of delays in implementing the utility's planned recurring annual capital improvement program. Additionally, the inadequacy of water revenues was viewed by witnesses for the Applicant as endangering the financial soundness of the Public Utilities Department.

10. Mr. Morgan, a witness sponsored by the Montana Consumer Counsel, criticized the analysis accompanying the City's request for interim relief as based on projected deficits, not historical data. Morgan contended that the Applicant's projections had not proven to be completely accurate in the past; based on his calculations, the City underestimated net revenue remaining after debt and recurring capital improvements by 32 per cent for the fiscal year ending June 30, 1977. (Schedule RLM-1 in Direct Testimony of Richard L. Morgan)

11. Unusual climatic conditions, specifically low rainfall, were cited by witnesses for the Applicant as responsible for the improvement in net revenue for FY 1977 compared with forecasts and such conditions should not be expected to continue.

12. Morgan disagreed with the City's reliance on cash flow analysis rather than accrual accounting in preparation of its request for interim relief. According to Morgan, cash flow deficits overstate the need for rate relief.

13. The Consumer Counsel's witness testified that the granting of any rate increases at this stage of the proceedings would be premature since detailed consideration of the utility's financial data is an absolute necessity in assessing water revenue deficiencies. (Direct Testimony of Richard L. Morgan Re. Interim Increase, Page 7, line 25 through Page 8, lines 1-3)

14. This Commission finds that the City of Billings has demonstrated the need for rate relief. Although questioning its magnitude, Morgan acknowledges a deficit for FY 1977. In the absence of increased water revenue, the deficit can be expected to continue, if not grow. Reduction of the capital improvements program cannot be anticipated to eliminate the deficit and would be undesirable. The City of Billings demonstrated the severity and concentration of leaks on existing mains and the need to accelerate replacement of deteriorated areas.

15. The Commission expects to issue a final order in this Docket within the nine-month time limit established by R.C.M. 1947 '70-113. However, in view of the Department's clear need for increased revenues, this Commission must act to keep the utility whole pending disposition of the application for permanent rate increases.

16. The Commission finds that an annual revenue increase of \$649,000 is reasonable. This total is comprised of the following elements:

(1) The estimated deficit position of the City of Billings for current obligations including operations, maintenance, and debt service of \$349,000 for FY 78; see Table 10 Black and Veatch.

(2) An allowance for recurring annual capital improvements of \$300,000 per year, which compares to the 5-1/2 year historical average of \$252,000 per year. Re: R.L. Morgan, pg. 5, para. 2.

The Commission in approving this level of interim relief has, in the absence of a revenue deficiency conceded by Consumer Counsel, made a good faith gesture to maintain the financial integrity of the City of Billings. The Commission has further recognized the serious need for main replacements by allowing additional revenue for recurring annual capital improvements.

17. The increase approved herein shall be distributed to all classes of Applicant's customers by raising all rates and charges a uniform percentage per hundred cubic feet.

COMMENT

As discussed in Findings of Fact 14 and 16, the serious main deterioration demands a concentrated replacement program. However, the Commission is concerned about the manner in which the replacement program will be accomplished. The Commission strongly urges that the additional \$300,000 per year for recurring annual capital improvements be dedicated and tracked to assure completion of the program. A major program is typically the subject of a revenue bond issue. A complete review of this issue is anticipated in the hearing on the permanent application.

CONCLUSIONS OF LAW

1. The Applicant is a public utility furnishing water service to customers in the State of Montana. This Commission has jurisdiction over the rates and charges for utility service and the conditions under which such service is rendered.

2. Revised Codes of Montana 1947, '70-113, as amended, provides in part that "The Commission may, in its discretion, temporarily approve increases pending a hearing or final action."

3. The Commission has provided full and adequate public notice of all proceedings in this Docket.

4. The rate level and rate structure approved herein are a reasonable means of providing interim relief to the Applicant. The rebate provision of '70-113 is a safeguard against any charges approved which might ultimately be determined unreasonable.

ORDER

THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The City of Billings shall file rate schedules effective for water service rendered on and after March 6, 1978 which yield revenue increases of \$649,000 annually.

2. The increased revenues authorized herein shall be distributed to Applicant's classes of service on the basis of a uniform percentage per hundred cubic feet including those Ccf included in the minimum charge.

3. This order is temporary and subject to modification by the

Final Order in Docket No. 6542.

4. Should any supplemental order reduce the increase authorized herein, the Commission will require rebates to all consumers in the amount by which the final rate level is less than the level authorized, plus ten percent annual interest on the amounts over collected.

5. In the event a rebate is directed by a supplemental Order in this Docket, provision shall be made in that Order to cause all uncollected rebates to be escheated to the State of Montana, in the manner provided by law.

DONE IN OPEN SESSION by a vote of 4-1 at a meeting of the Public Service Commission held March 6, 1978.

GORDON E. BOLLINGER, Chairman

P.J. GILFEATHER, Commissioner

THOMAS J. SCHNEIDER, Commissioner

JAMES R. SHEA, Commissioner
(Voting to dissent)

GEORGE TURMAN, Commissioner
Concurring specially

ATTEST:

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 82-4216, Revised Codes of Montana 1947.

In concurring specially, I make a distinction here between municipal and private utility operations. It follows that this should be regarded as an exceptional action with respect to petitions for interim rate relief.

The city government, which is responsible to the people, is appropriately charged with the management of the municipal utility system. The rates at issue involve revenues to be derived from the people and applied exclusively for their benefit by the duly constituted authority.

GEORGE TURMAN, Commissioner
District #5
GT/mft