

Service Date: February 6, 1979

FINAL ORDER NO. 4466b

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

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IN THE MATTER of the Application )  
of the TOWN OF FROMBERG for auth- ) DOCKET NO. 6592  
ority to Increase Water Rates. ) FINAL ORDER NO. 4466b

BEFORE: THOMAS J. SCHNEIDER, Commissioner and Hearing Examiner

APPEARANCES

FOR THE APPLICANT:

JOSEPH E. MUDD, Esquire, Attorney at Law, Box 471, Bridger, Montana, 59014,  
appearing on behalf of the Applicant.

FOR THE PROTESTANT:

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

FOR THE COMMISSION:

EILEEN E. SHORE, Staff Attorney

JAMES P. DWYER, Rate Analyst

FRANK E. BUCKLEY, Administrator, Utility Division

APPLICATION AND PROCEEDINGS

1. On June 29, 1978 the Town of Fromberg, Montana filed an application to increase water rates.

2. On July 17, 1978 a Notice of Proposed Public Hearing was published in several area media outlets.
3. A corrected Notice of Proposed Public Hearing was published on July 19, 1978.
4. A protest and request for public hearing was received on July 31, 1978.
5. On August 2, 1978 the Montana Consumer Counsel filed a protest and request for public hearing on behalf of a water consumer of the Fromberg Water Department.
6. On August 9, 1978 a Notice of Public Hearing, which set this hearing for September 7, 1978 in Fromberg, was published.
7. On August 10, 1978 Public Service Commission staff issued data requests.
8. On August 21, 1978 Montana Consumer Counsel issued data requests.
9. On August 29, 1978 partial answers to the data requests were received.
10. Pursuant to the notice of Public Hearing a Public Hearing on this matter was held in the Hospitality Room, Clarks Fork National Bank, Fromberg, Montana at 2:00 p.m. on Thursday, September 7, 1978 with an evening session in the same location at 7:00 p.m. the same day.
11. During the hearing Montana Consumer Counsel requested late filed exhibits.
12. Town of Fromberg supplied late filed exhibits on October 14, 1978.
13. On November 3, 1978 the Public Service Commission received a request for interim relief.
14. On November 2 and 3, 1978 Commission staff conducted an examination of the accounts of the Town of Fromberg Water Department.
15. On December 7, 1978 Temporary Order No. 4466 was issued. It granted a 25% interim rate increase for the applicant.
16. On January 2, 1979 Proposed Order No. 4466b was issued.

#### FINDINGS OF FACT

1. The applicant introduced two witnesses: Anne Kallevig, Town Clerk and Tony Brilz, Mayor of Fromberg.

2. Mrs. Kallevig testified, to the best of her knowledge, about the financial affairs of the Town of Fromberg water utility.

3. Mayor Brilz testified about the policy and decision making process of the Town Council.

4. The Montana Consumer Counsel cross-examined both witnesses to such a degree that the financial position of the utility was completely in doubt at the conclusion of the hearing. Accordingly, late filed exhibits were requested by the Montana Consumer Counsel. Also, an examination of the accounts of the utility was requested by Montana Consumer Counsel. The test year results for revenues, expenses, bonded indebtedness, and rate discrimination charges are a blended result of the facts produced for the record at the hearing, as well as the findings of the examination of accounts conducted by the Public Service Commission staff.

5. Revenues.

The Applicant requested a \$3,800 increase in revenues calculated as follows:

Out of Town	\$ 300.00
In Town	2,940.00
Commercial	<u>560.00</u>
	\$3,800.00

The Commission finds that a 25% across the board increase would produce essentially the same result:

FY 78 Revenue	\$15,020
% Increase	<u>x .25</u>
Revenue Increase	<u>\$ 3,755</u>

6. Expenses.

During the conduct of this hearing several questions were raised with respect to allocation of expense items. An examination of the accounts of the Applicant did indeed substantiate that an underallocation of expenses had been occurring. Accordingly the Commission finds the following adjustment to expense is reasonable:

Legal Retainer	\$250
Telephone	75
Dues	20
Gasoline & Oil	300
Salaries	<u>210</u>
Total Underallocation	<u>\$855</u>

7. Future Debt Service.

The Applicant has proposed to finance this major capital improvement program with a \$20,000 bond issue at 7% interest. The Clark's Fork National Bank of Fromberg has already submitted bid to purchase this amount of bonds at the stated interest. The Commission finds that the calculation of Future Debt Service is as follows:

Principal	\$2,000
Interest	<u>1,400</u>
Total	\$3,400
Present Debt Service	<u>1,725</u>
Total Future Debt Service	<u>\$5,125</u>

Present debt service was calculated as follows:

FY 1978	Principal	\$1,500
	Interest	360
FY 1979	Principal	1,500
	Interest	270
FY 1980	Principal	1,500
	Interest	180
FY 1981	Principal	1,500
	Interest	90

Average Principal per year	\$1,500
Average Interest per year	<u>225</u>
	<u>\$1,725</u>

8. Test Year.

A reconstruction of Findings of Fact 5, 6, and 7 would produce this test year:

	<u>FY78</u>	<u>Known &amp; Measurable Changes</u>	<u>TY</u>
Revenues	\$15,020	(5) 3755	\$18,775
Expenses	(\$12,670)	(6) 855	(\$13,525)
Debt Service	<u>(\$ 2,340)</u>	(7) 2785	<u>(\$ 5,125)</u>
Net Income	<u>\$ 10</u>		<u>\$ 125</u>

The Commission finds this test year to be appropriate for this proceeding.

9. Rate Structure Issues.

(a.) The local motel pays a rate which is published in neither existing rate schedules nor proposed schedules. The rate is as follows:

<u>Units Rented During the Month</u>	<u>Rate</u>
4	\$ 8.00
5	\$10.03
6	\$12.00

The Commission finds that this rate did produce a portion of FY 1978 revenues and as such must be included in the new rate schedule and increased by the proper percentage figure.

(b.) The local schools pay a flat rate of \$500 per year. No Increase in rates was proposed for the schools.

The Commission finds that the local schools did contribute to FY78 revenues. Absent any clear showing that the water use of the school should not bear its share of the increased cost, the rate charged the local schools must also be increased by the appropriate percentage.

(c.) During the course of the examination of the utility's accounts, the staff examined the minutes of the Town Council for the previous three years. A resolution which allows part time residents and vacationers a minimum rate of \$2.40 was discovered. This minimum rate has not been included in present or proposed rate schedules. Since this minimum rate was in effect in FY78 and therefore did contribute to those revenues, this commission finds that this rate is also subject to the percentage increase.

(d.) Tank customers receive unlimited amounts of water through a key system for \$5.00 per month. While this commission necessarily avoids entering into management decisions

of a municipal utility, it must recognize the concept of equitable rates between the various customers and also the conservation of a precious natural resource. This present system appears to ignore both of these concepts. The commission finds that the utility should make an effort to control these tank sales either by metering or estimation and set a rate schedule consistent with the new schedule. A suggested method as indicated by most recent engineering studies submitted to this commission is to set the average family usage at 10,500 gallons per month (350 gal x 30 days) and charge these tank customers on the new rate schedule according to their usage either metered or estimated.

(e.) During the conduct of the hearing, several allegations with respect to rate discrimination were lodged by public witnesses. The staff's examination substantiated several of these allegations.

The Commission finds that the American Legion Hall, the Catholic Church, and Methodist Church do, in fact, use water however minimal amounts. Since a minimum rate for vacationers and part-time residents does exist and has been previously used, these three consumers must be charged at least this minimum rate.

(f.) An outside town customer, Mr. Alex Foos, has received water at the inside town rate for the past 56 months. The Town Council rationalizes this preferential treatment with the argument that Mr. Foos has applied for annexation into the Town of Fromberg.

The Commission finds that an application for annexation does not entitle a consumer to inside town rates until the annexation has been acted upon and completed by the Town Council. Mr. Foos' rate should be immediately adjusted to the proper rate.

(g.) The Guy Eide trailer outside of town presents a similar problem with a different aspect. Since it is a rental property, the tenants have paid the water bill. Any effort to attempt collection would be superfluous. Therefore, this Commission finds that the Eide trailer rates should be immediately adjusted to the proper level.

(h.) On February 28, 1977, the Town of Fromberg filed water rate increase application with the Public Service Commission. This matter was assigned Docket No. 6488 and a Notice of Proposed Hearing was published in accordance with the Administrative Rules of Montana. No

Protests or requests for hearing were received in the allotted 30 day period. Accordingly, Default Order 4332 was issued on March 29, 1977 authorizing the applicant's rate increase. From that date to the present time, Mr. and Mrs. William Marcher have withheld payment of the \$2.00 increase legally approved by this Commission. This Commission recognizes Mr. and Mrs. Marcher's argument with respect to public dissemination of information in Docket No. 6488. However, the legal requirements for noticing were met in this Docket and as such, the Commission legally approved the rate increase.

The Commission finds that the \$2.00 rate the Marchers have not paid is legal and therefore, the Marchers must pay the balance due and continue paying the rate as prescribed by the rate schedule as must all other consumers.

An extra comment in regard to this issue is that in this immediate matter, the Commission staff did research the previous correspondence file and discover the Marcher's complaint, after the fact, in Docket No. 6488. Accordingly, the staff personally contacted the Marchers and have continued throughout this proceeding to far exceed the legal requirements for notice and public participation.

(i.) The Town of Fromberg is a consumer of water from the water department. However, no charge current or proposed is levied against the Town for water use.

The Commission finds that the Town of Fromberg must pay for water consumed for parks, city hall and fire hydrants. A provision in the new rate schedule must be included for this charge.

(j.) During the course of the examination, several old and overdue accounts receivable were discovered. It can also be noted that the Department of Community Affairs audit for FY77 contained a recommendation for aging accounts receivable.

The Commission finds that uniform accounting standards for aging accounts receivable must be implemented by this utility. Also currently existing ordinances with respect to collection and termination of service for non-payment must be enforced.

(k.) At the present time, the utility charges \$50 for all new hookups to the water utility. The General Rules and Regulations for Water Utilities specifically rule G-2, which states

in part "the company at its own expense will tap the main and furnish corporation cock, clamp when necessary, and any other material used or labor furnished in connection with tapping the main" (emphasis added), prohibit such a hookup charge.

Therefore, the Commission finds that in accord with these Rules and Regulations, the Town of Fromberg must immediately act to discontinue such hookup charges.

(1.) With respect to the underallocation of expenses referred to in Finding of Fact No. 6, the Commission finds that henceforth the Town Clerk must make every reasonable effort to properly allocate any and all expenses of the town which could be allocated to the water utility.

#### CONCLUSIONS OF LAW

1. The Public Service Commission has jurisdiction over parties and proceedings in this matter.
2. The rate levels prescribed by this order are reasonable and just.

#### ORDER

##### IT IS HEREBY ORDERED:

- (1.) That the Town of Fromberg increase all rates and charges for water service by 25% across the board.
- (2.) That the Town of Fromberg immediately act to comply with all the Findings of Fact No. 9 (a-1).
- (3.) That all motions not previously ruled upon are denied.
- (4.) That the Applicant file tariffs in compliance with this order.
- (5.) That a full, true and correct copy of this order be sent forthwith by certified mail to the Applicant herein, and by first class United States mail to all other appearances herein.
- (6.) That the rates herein approved shall be effective upon filing of the schedules by the applicant and approval of this Commission of said schedules.

DONE at Helena, Montana, this 5th day of February, 1979, by a 5 - 0 vote.

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GORDON E. BOLLINGER, Chairman

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CLYDE JARVIS, Commissioner

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THOMAS J. SCHNEIDER, Commissioner

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JAMES R. SHEA, Commissioner

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GEORGE TURMAN, Commissioner

ATTEST:

Madeline L. Cottrill  
Commission Secretary

(SEAL)

NOTE: You are entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.