

Service Date: December 19, 1978

FINAL ORDER NO. 4465a

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	
of the TOWN OF EUREKA for authority)	DOCKET NO. 6613
to Increase Rates for sewer service.)	ORDER NO. 4465a

APPEARANCES

For the Applicant:

DAVID W. HARMAN, Attorney at Law, 505 Mineral Avenue, Libby, Montana 59923,
appearing for the Town of Eureka.

For the Protestants:

GEOFFREY L. BRAZIER, Attorney at Law, 34 West 6th Avenue, Helena, Montana;
Montana Consumer Counsel.

As His Interests Appeared:

ROBERT S. KELLER, Attorney at Law, P.O. Box 839, Kalispell, Montana; appearing for
Kenneth Gwynn.

For the Commission:

ROBERT F.W. SMITH, Attorney at Law, and JAMES DWYER, Utility Rate Analyst,
1227 11th Avenue, Helena, Montana; appearing for the Montana Public Service
Commission staff.

Before:

GEORGE TURMAN, Commissioner and Hearing Examiner

FINDINGS OF FACT

On September 11, 1978, the Town of Eureka (Applicant) filed a petition with the Montana Public Service Commission requesting that the Commission, authorize Applicant to increase its sewer rates for additional revenue to upgrade its sewage treatment facilities.

2. Pursuant to public notice issued September 21, 1978, a Public Hearing on this matter (assigned Docket No. 6613 by the Commission) was held in the Lincoln Electric Cooperative Meeting Room, Eureka, Montana, at 2:00 p.m. on Thursday, October 26, 1978, with Commissioner George Turman presiding.

3. The Applicant introduced four witnesses: Joyce Hudson, Eureka Town Clerk and Treasurer; Dennis Carver, Consulting Engineer; Carol Wobing, Eureka Town Water Supt.; and Barbara Morgan, Mayor of Eureka. One Protestant testified, Thomas Brooks, owner of Eureka's only laundromat. Several exhibits were introduced.

4. Mr. Carver, of the engineering firm of Morrison Maerle, outlined the procedure used in projecting the costs of new sewage treatment facilities required for the Town of Eureka by the Environmental Protection Agency. New rates were then developed by fixing an "equivalent user" at 350 gallons of sewage per day, determining the number of "equivalent users" in the town, then fixing the rates accordingly, with minor adjustments.

5. Mr. Carver responded to cross-examination on a variety of issues, to wit: the EPA will have to approve this rate structure, meters were used only to verify and guide in fixing the new rates, bond sale requirements, several specific cost items, EPA sewer rate guidelines, and the 12.5% sewer volume comparability adjustment for all commercial accounts in the Town of Eureka.

6. Mrs. Hudson testified in detail about several matters: sewer use and rates of the laundromat, new taps - 17 this year, winter shut-offs, and available re-dress to any customer who feels his or her rates are improper.

7. Mrs. Hudson was cross-examined extensively on specific items in the town's Cash-Flow Statement, in an attempt to determine whether the full extent of the requested rate increase was justified.

8. Although all items could not be determined with specificity, the testimony and exhibits of witnesses Carver and Hudson suggested that factors including inflation and rising interest rates could consume any possible surplus revenue.

9. Mr. Wobing detailed the maintenance and repair situation of the City.

10. Mrs. Morgan outlined the procedure, philosophy and history of the town's Sewer Rate Relief Committee.

11. Mr. Brooks, the sole protestant, detailed his particular difficulties with the rates, and presented a petition, signed by 181 of the laundromat's customers, protesting the rate proposed for the laundromat.

12. The greater part of Mr. Brook's problems stemmed from the fact that he runs a locker plant with the laundromat, and the plant's compressors are cooled by a continuous flow of water that goes directly into the town sewer. Mr. Brooks testified that it was his understanding that installing a system to recycle the cooling water, thus decreasing his water and sewer use substantially, would not decrease his sewer bill.

13. Upon examination of the exhibits filed in this Docket, it appears that Mr. Brooks' laundromat was not afforded the 12.5% volume comparability adjustment received by other commercial customers of the Town of Eureka.

For purposes of calculating Mr. Brooks' rate, his twenty-four month average usage was taken from Protestant's Exhibit A, and the 12.5% adjustment applied to that, causing a reduction to \$190.00 in his monthly rate.

The Commission also is instituting a procedure by which commercial customers of the Town of Eureka may go to a rate based upon metered water use. This metered rate is intended to provide equitable conditions of service among customers and to adjust billings appropriately for achieved conservation.

14. A proposed order was issued by the hearings examiner on November 17, 1978. No protests were received regarding that order within the statutory period before which a final order may be issued.

RULINGS ON MOTIONS

1. Judicial Notice is taken of the water tariff of the Town of Eureka.
2. All other motions not ruled on at the Hearing are denied.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.
2. The Commission provided all parties proper notice and an opportunity to participate in this proceeding.
3. With the exception noted and treated herein, the rates filed by the Town of Eureka for sewer services are just and proper.

ORDER

IT IS ORDERED that the following schedule of rates and charges for sewer service offered by the Town of Eureka IS APPROVED and shall be effective upon approval of the newly filed tariffs.

MONTHLY SEWER CHARGES

<u>USER TYPE</u>	<u>PROPOSED CHARGE MONTHLY</u>
Residential	\$7.00
Nursing Home	\$105.00
Hotels & Motels	
Stockman's Hotel	\$17.50
Parson's Motel	\$10.50
Dierman's Motel	\$11.41
Restaurants *	
Lynn's Cafe	\$7.00
Eureka Cafe	\$8.75
Beauty Shop	\$26.25
Barber Shop	\$8.75
Schools	
Elementary	\$119.00
High	\$105.00
Laundromat	\$190.00
Gas Stations	
Town Pump	\$14.91
Jim's Union 76	\$17.50
Farmer's Union	\$17.50
Tavern's	
Eureka Tavern	\$31.50
Stockman's	\$18.90
VFW Club	\$10.50
Pizza Club	\$35.00
Other Commercial	\$7.00
Lodges	\$7.00
Optional Commercial	
Metered Rate	\$7.00/10,500 gal. per mo.

Commercial customers of the Town of Eureka may choose the optional metered rate, if the following conditions are met:

- 1) All water discharged into the sewer system passes through the meter; and
- 2) The meter is purchased, installed and maintained at the customers expense, unless the Town agrees otherwise.

IT IS FURTHER ORDERED that the Applicant file tariffs in compliance with this order.

DONE IN OPEN SESSION in Helena, Montana on this 18th day of December, 1978, by a vote of 5-0.

ATTEST:

Gordon E. Bollinger, Chairman

Madeline L. Cottrill
Commission Secretary

Thomas J. Schneider, Commissioner

(SEAL)

P.J. Gilfeather, Commissioner

James R. Shea, Commissioner

George Turman, Commissioner

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. 82-4216, R.C.M. 1947; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.