

Service Date: December 26, 1980

FINAL ORDER NO. 4732

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

In the matter of the application of) UTILITY DIVISION  
the MARTIN CITY WATER COMPANY for ) DOCKET NO. 80.6.39  
an Increase in Rates. ) ORDER NO. 4732

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APPEARANCES

FOR THE APPLICANT:

John Dudis and Don Murray, Attorneys at Law, P.O. Box  
759, Kalispell, Montana 59901.

FOR THE PROTESTANTS:

James C. Paine, Montana Consumer Counsel, 34 West Sixth  
Avenue, Helena, Montana 59601.

FOR THE COMMISSION:

Robert F. W. Smith, Staff Attorney, 1227 11th Avenue,  
Helena, Montana 59601.

BEFORE:

GORDON E. BOLLINGER, Chairman  
GEORGE TURMAN, Commissioner  
CLYDE JARVIS, Commissioner

The Commission, having taken evidence and being fully  
advised in the premises, makes the following findings,  
conclusions and order:

FINDINGS OF FACT

1. On June 17, 1980, the Martin City Water Company  
(Applicant) submitted its Petition for increased rates  
and changes in its regulations. This Application was  
assigned Docket No. 80.6.39 and subsequently the  
Commission gave notice that it had assigned the matter  
for public hearing at 10:00 a.m. in the Martin City

Fire Hall on July 15, 1980.

2. The Applicant seeks to increase annual water revenues by approximately \$23,376. The following represents the present and proposed rates of the utility:

<u>Present Rates</u>		<u>Proposed Rates</u>	
Residential	\$10.00/month	Residential	\$25.00/month
Commercial	\$20.00/month	Summer Residential	
Summer Sprinkling	5.00/month	May 1 thru Sept. 30	\$32.50/month
		Commercial	\$ 5.00/month
		Livestock/head	\$ 5.00/month
		Fowl/dozen	\$ 5.00/month

In addition, Applicant seeks to implement certain rule changes, as follows:

Rule G-1: Assessment of a \$25.00 service fee, to accompany application for water service.

Rule G-2: Assessment of a fee of \$25.00 to be required at the time service begins.

Rule G-6: Damage to the curb box and curb cock, or tampering with same will result in one or more of the following: immediate termination of water service, responsibility of owner for any repair bills incurred, \$50.00 fine.

Rule G-7: Assessment of a \$25.00 fee for turning on the service after consumer has requested discontinuance of the use of water temporarily.

3. At the July 15th hearing, the Applicant's case was presented by Wes Johnson, owner-operator, and his wife Judy. Several public witnesses also testified:

Virgina Strowbridge, former customer;  
 Judy Strowbridge, former customer;  
 Donna Jo Grilly, former customer;  
 Diane Johnson, customer;  
 Sandy McAllister, customer;  
 Wilbur Aikin, Department of Health, Water Quality Bureau;  
 and Jeff Hughes, Department of Health, Water Quality Bureau;

4. Mr. Johnson stated that the rate increase was necessary to give him sufficient funds to complete the replacement program he has undertaken. Mr. Johnson stated that the replacement program is 99% complete needing only the replacement of 270 feet of wooden main, and the addition of some pressure tanks and switches.

His main problem is that he has no money now, and has put some \$270,000 of his own into the system. tin Johnson also detailed the problems he has had with harassment and hidden sprinkling. These problems have forced him to move to Hot Springs.

5. On cross-examination Mr. Johnson detailed the improvements he has made, as well as the problems he has had with the relocation of U.S. Highway 2. He also discussed his proposed rule changes. Mr. Johnson was also asked why his capital improvements had also increased his O&M expenses. He explained that since the system was tighter now, hence more load is being put on the system.

6. Mr. Johnson also admitted that his pre-filed material included his capitalized labour; he agreed to submit a late-filed exhibit detailing the capitalized labour. When this was done, the Montana Consumer Counsel submitted a proposed order that calculated new rates according to standard Commission procedure. (pp. 4,5,6) This calculation resulted in the suggestion that Martin City Water Company only merited a 3% increase in rates.

7. Mrs. Johnson, as Company bookkeeper, explained the financial exhibits, explaining Operating and Maintenance Expenses as well as those for Mr. Johnson's labour. Mrs. Johnson also explained the proposal to charge rates based on the number of livestock or fowl.

8. The Strowbridges and Mrs. Grilly had all drilled wells so that they could avoid dependence on Mr. Johnson. They were quite bitter in their characterizations of Mr. Johnson's performance.

9. Mrs. Diane Johnson was quite emphatic that Mr. Johnson should not receive any further rate increases until he had finished the job he started.

10. Mrs. McAllister felt that the service had improved since January, although it was still poor & Mr. Johnson refused to accept calls informing him of problems. Mrs. Powell concurred saying that Martin City could not afford the proposed increase.

11. Mr. Aiken and Mr. Hughes testified to the problems that they have had trying to get Mr. Johnson to comply with Dept. of Health requirements. Although Mr. Johnson's water samples are not contaminated, he has never submitted plans of the water system for Department approval.

#### ANALYSIS

The Commission's major tool with which to bring about the goal of adequate service, is the denial of a proposed rate increase. In this case, not only is the basis of the proposed increase large amounts of the owner's capitalized labour, but the problems of adequate service are immense. INASMUCH AS RATES PREVIOUSLY WERE SET TO ACCOMMODATE NECESSARY IMPROVEMENTS BUT SERVICE REMAINS INADEQUATE, THEREFORE, THE PROPOSED INCREASES ARE NOT JUSTIFIED AND THEREFORE ARE DENIED. The files of the Commission are replete with evidence of the efforts of Martin City water subscribers as well as the Commission to obtain adequate water service. The rate increase granted in Docket 6530 was intended to provide Mr. Johnson with the money needed to repair the plant of the Martin City Water Company. Furthermore, in this case testimony indicates that service

is not adequate, that compliance with the prior order of the Commission respecting a schedule for improvements is doubtful, and that certain requirements of the Department of Health and Environmental Sciences including those respecting substantial changes in water systems have been ignored.

THEREFORE, the Commission must deny the requested increase until such time as the Applicant shows some desire to cooperate with the Department of Health and complete those projects for which rates were increased in 1977. For the same reasons, the Applicant's rule changes, which are but thinly disguised additional revenue sources, are also denied.

#### CONCLUSIONS OF LAW

1. The Martin City Water Company rates are subject to the jurisdiction of this Commission under Section 69-1-102, et. seq., MCA.
2. Pursuant to MCA 69-3-201 it is the duty of every public utility to provide adequate service at reasonable rates.
3. Owners of sole proprietorships may not, for rate making purposes, capitalize their labor costs nor may they expense said costs.

#### ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1227 11th Avenue, Helena, Montana, on the 19th day of December, 1980, there being present a quorum of Commissioners, there came

regularly before the Commission for final action the matters and things in Docket No 80.6.39, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of Martin City Water Company to increase water rates and amend its general rules and regulations IS DENIED.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class United States mail to the Applicant and to all other appearances herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission,

IN OPEN SESSION at Helena, Montana, this 19th day of December, 1980 by vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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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 may be 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 Re consideration 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. 8.2.4806 ARM.