

Service Date: July 8, 1981

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

IN THE MATTER of the Application )  
of the CITY OF SHELBY For Authority ) DOCKET NO. 81.2.16  
to Increase Water Rates. ) ORDER NO. 4789a  
)

APPEARANCES

FOR THE APPLICANT:

Don Lee, City Attorney, Shelby, Montana 59474

FOR THE PROTESTANTS:

John C. Allen, Staff Attorney, Montana Consumer Counsel, 34  
West Sixth Avenue, Helena, Montana 59601

FOR THE COMMISSION:

Robert F. W. Smith, Staff Attorney, 1227 11th Avenue, Helena,  
Montana 59620

BEFORE:

Commissioner Gordon E. Bollinger, Helena, Montana 59620

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

FINDINGS OF FACT

1. On February 11, 1981, the Montana Public Service  
Commission received the request of the City of Shelby (City  
or Applicant) for authority to increase water rates. The  
first step was an immediate 25% rate increase, "to eliminate  
the default by the applicant in meeting the terms and  
conditions of its current bond ordinance". Due to the  
emergency nature of the default situation, the City requested  
that it be granted this increase immediately; the Commission

agreed in Interim Order No 4789.

2. The second step increase request sought an additional 34% increase in rates, or a total of 592. The total annual revenue increase proposed was \$149,400. The second step was deemed necessary to provide certain capital improvements that the City's consulting engineer determined to be needed.

3. The City also sought approval of a map showing its Water Service Area boundaries. While this map is not entirely dispositive of all possible water service area questions, the Commission does consider it to be a presumptive evidence of the City's Water Service Area, and accepts it as such.

4. Protests to the proposed increase having been received, a public hearing was held pursuant to notice, on May 15, 1981, in Shelby.

5. At the May 15 hearing, the City offered the following four witnesses in support of its request.

Earl Bennett - City Clerk,

Eugene S. Huffert - Vice-President, D.A. Davidson

T. H. Thomas - Consulting Engineer, and

Dick Vorlees - City Superintendent

These witnesses testified to revenues and expenses, bond principle and interest payments, and capital improvements.

6. Six public witnesses also testified at the public hearing.

Jim Gunlickson - Former City Employee

Mervin Felton - Potential Customer

Jim Clark - Potential Customer

Ray Stemps - Representative, Shelby Taxpayer

Larry Bondrud - City Councilman Gerald Stratman - Former  
Operator of Water Plant

James Odewaldt - City Water Customer

Generally, these witnesses were opposed to an extensive capital improvement program at this time. Mr. Clark & Mr. Felton also complained that the City had refused them service.

7. Mr. Bennett testified that generally revenues were not keeping pace with expenses. He introduced a statement of revenues and expenses to corroborate his testimony. The Commission finds the City's proposed operating expenses reasonable and accepts them.

8. Mr. Huffert testified about the City's need to return to compliance with its bond ordinance. He introduced several exhibits including a financial audit to corroborate his testimony. The Commission finds that the City should definitely have rates sufficient to comply with its bond ordinance, and accepts the City's estimate of the costs.

9. Mr. Thomas testified regarding the proposed capital improvements and the methods used to generate the new rate structure. Mr. Thomas corroborated his testimony by introducing his firm's Engineering Evaluation of the Municipal Water System of the City of Shelby, Montana. The proposed rates perpetuate the City's present declining block rate structure, with a minimum charge. Several public witnesses complained that the capital improvements were not needed at this time. As the Commission is forbidden by law from interfering in the management of public utilities it must accept the City's judgement on the need for these

improvements. However, the Commission does have the authority to inquire into utility management, and as such finds that the City should report to it on its capital improvements.

10. At the close of the hearing all parties agreed on the record that the Commission need not undertake the Proposed Order/Exceptions process and that a Final Order could be issued initially.

#### CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this Docket (MCA 69-3-101, 69-3-302).
2. The Commission afforded all interested persons proper notice of these proceedings (MCA 2-4-601).
3. "A consideration of the entire Public Utility Act leads us to the conclusion that 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, but it was never 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, we cannot, admit.  
(Public Service Commission versus City of Helena, 52 Montana 527 ut 541.)
4. The Commission may inquire into the management of public utilities (MCA 69-3-106).

5. The rates approved herein are reasonable and just (MCA 69-3-201).

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 6th day of July, 1981, there being present a quorum of commissioners, there came regularly before the Commission for final action the matters and things in Docket No. 81.2.16, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of the City of Shelby IS HEREBY GRANTED in full, effective July 6, 1981.

IT IS FURTHER ORDERED that the City of Shelby shall report to the Commission quarterly on its progress on its Capital Improvement Program.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class United States mail to all 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 6th day of July, 1981, by vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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GORDON E. BOLLINGER, Chairman

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JOHN B. DRISCOLL, Commissioner

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HOWARD L. ELLIS, Commissioner

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CLYDE JARVIS, Commissioner

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THOMAS J. SCHNEIDER, 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 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. 32.2.48 ARM.