

Service Date: February 23,1984

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

IN THE MATTER Of The Application ) UTILITY DIVISION  
Of The CITY OF SHELBY For Authority ) DOCKET NO. 83.5.40  
To Increase Rates And Charges For ) ORDER NO. 5048  
Sewer Service. )

APPEARANCES

FOR THE APPLICANT:

James Johnson, City Attorney, City Hall, Shelby, Montana  
59676

FOR THE INTERVENORS:

James C. Paine, Montana Consumer Counsel, 34 West Sixth  
Avenue, Helena, Montana 59620.

FOR THE COMMISSION:

Opal Winebrenner, Staff Attorney, 2701 Prospect Avenue,  
Helena, Montana 59620.

BEFORE:

Danny Oberg, Commissioner and Hearing Examiner

PROPOSED ORDER

The Hearing Examiner, having taken evidence, and being  
fully advised in the premises, makes the following Proposed  
Findings Of Fact, Conclusions of Law and Order:

BACKGROUND

1. On May 13, 1983, the City of Shelby (Applicant or  
City) filed an application with this Commission for authority  
to increase rates and charges for sewer service to its  
customers in the Shelby, Montana area. The Applicant  
requested an average increase of approximately 190 percent,  
which would result in an annual revenue increase of  
approximately \$76,700.

2. On September 15, 1983, pursuant to notice of public

hearing, a hearing was held in the Marias River Electric Coop Hospitality Room, Shelby, Montana. The purpose of the public hearing was to consider the merits of the Applicant's proposed sewer rate adjustment.

#### ANALYSIS AND FINDINGS OF FACT

3. At the public hearing the Applicant presented the testimony and exhibits of:

Larry Bonderude, City Councilman

Martha Samuelson, City Clerk

Dick Voorhies, City Superintendent

Tom Thomas, Consulting Engineer

These witnesses testified relative to: the need for proposed capital improvements, the fact that a portion of the proposed capital improvements are mandated by the Federal government, the estimated cost of proposed capital improvements, the financial condition of the water utility, service problems experienced by consumers and rate structure.

4. The Consumer Counsel presented the testimony of two public witnesses at the public hearing. Gerald Stratman, a subscriber connected to the City's sewage system, stated that on several occasions during the last three years he had sewage back-up into his basement which caused significant damage to his residence. He supports the City's proposed rate increase to fund capital improvements to the sewer system. Dr. Pat Pardis, also a subscriber to the City sewage service, did not express any concerns relative to the City's proposed capital improvement program for the sewer system or funding of the program. He did ask the question "Is the City's water utility operation paying a portion of the City's expenses

which are properly chargeable to the sewer utility operation?" City witnesses, during the course of the hearing, addressed Dr. Pardis' question and indicated that the water utility was not absorbing any expenses that were properly chargeable to the sewer utility. The Commission, based upon the testimony of City witnesses, finds that the Applicant's accounting procedures are adequate and insure proper allocation of expenses between the City's two utility operations.

5. The City, in its application, has set forth a proposed capital improvement program for the sewer utility. The City proposes that the construction program initially be funded from a Revenue Bond Issue having a maximum term of 20 years and a maximum interest rate of 10t percent, with the requirements that the City have a reserve fund in an amount equal to the maximum principal and interest payment on the bonds and provide a debt service coverage of 125 percent. The proposed Revenue Bond Issue will be a callable bond, meaning the City will have the ability to pay the obligation before maturity by giving notice of redemption in a manner specified in the indenture.

The reason the City is making the proposed Revenue Bond Issue a callable bond is to insure that it will have the ability to avail itself of a lower interest financing mechanism available through the Montana Department of Natural Resources. The Department of Natural Resources is administering a program of funding for specified projects as provided in House Bill 885 passed by the 1983 Montana Legislature. At the present time, the provisions of House Bill 885 are under a court challenge. Pending the outcome of the court challenge, all funding provided by that bill is frozen. Therefore the City, in an effort to proceed with its

capital improvement program, proposes to initially fund construction through the Revenue Bond Issue with a conversion to a loan from the State of Montana, when and if, the provisions of House Bill 885 are found to be legal.

6. The following Table No. 1 sets out the proposed sewer system improvements and the estimated cost of the improvement. Priorities 1 through 4 of the proposed capital improvement program have been mandated by the Federal Government, and therefore are not subject to this Commission's review and approval pursuant to Title 69, Chapter 7, MCA. The capital improvements outlined in priority 5 are subject to this Commission's review and approval, and funding for these improvements is under consideration in this Docket.

7. The Table 1 capital improvements outlined in Priority 5 are generally for the purpose of replacing and modifying portions of the existing system to insure adequate provision of service to consumers, and to prevent sewage back-up into consumers' dwellings as the result of blockages in the City's mains .

The City's witnesses testified that during the last few years the City has had numerous trouble calls from consumers complaining of sewage back-up into their dwellings, caused by the deteriorated condition of the City's sewer mains and manholes. To further substantiate its contention that the sewage back-up was the fault of the City, the City produced paid insurance claims from its insurance company to consumers paying for damages incurred as the result of back-ups.

It is the position of the City's consulting engineers that if the improvements outlined in Priority 5 are constructed, the back-up of sewage into consumers' dwellings will be

alleviated.

8. The Commission finds, having considered the testimony of the City and its consulting engineer that the City's sewer

TABLE NO. 1  
CAPITAL IMPROVEMENTS

PROJECT	TOTAL ESTIMATED COST	EPA FUNDING	LOCAL COST
Priority One:			
Shelby Heights			
Manhole & Sewer Replacement	\$ 300,000	\$ 225,000	\$ 75,000
Priority Two:			
Overpass Replacement & N.E.			
Interceptor, Construction			
of Manholes & Sewer Line	72,000	54,000	18,000
Priority Three:			
West Interceptor - Manhole &			
Sewer Line Replacement	48,000	36,000	12,000
Priority Four:			
Lagoon Improvements	400,000	300,000	100,000
SUBTOTAL	\$ 820,000	\$ 615,000	\$ 205,000
Priority Five:			
Replacement of West Lift			
Station	62,000	0	62,000
West Lift Station Discharge			
Piping	31,000	0	31,000
Central Area Manhole &			
Sewer Line Replacement	53,000	0	53,000
Johnson Park Manhole &			
Sewer Line Replacement	125,000	0	125,000
Park Drive Manhole &			
Sewer Line Replacement	18,000	0	18,000
East Choteau St. Manhole &			
Sewer Line Improvements	54,000	0	54,000
Aronow Park Manhole &			
Sewer Line Replacement	142,000	0	142,000
SUBTOTAL	485,000	0	485,000
TOTAL	\$ 1,305,000	\$ 615,000	\$ 690,000

mains and manholes are in a deteriorated condition, are causing sewage back-up into consumers dwellings, and corroborating testimony of the public witness, that it is prudent for the City to construct the proposed capital improvements to correct deficiencies. The Commission also finds the City's estimated cost of \$485,000 for construction of the proposed capital improvements is a reasonable estimate.

9. The City proposes to finance the construction costs of the capital improvement program initially by issuance of revenue bonds with conversion at a later date to a loan from the Montana Department of Natural Resources. The City proposes to issue \$690,000 in revenue bonds (which includes \$205,000 for construction of federally-mandated improvements) to be repaid over a maximum period of 20 years at a maximum interest rate of 10 percent, with the requirements that the City have a bond reserve in an amount equal to the maximum principal and interest payment on the bonds and provide a debt service coverage of 125 percent.

10. The proposed \$690,000 Revenue Bond Issue with an interest rate of 10 percent will have an annual principal and interest payment of \$83,835, of which \$58,927 would be for servicing debt on capital improvement construction approved by this Commission. This item of expense was not contested by any party in this proceeding, and is, therefore accepted by the Commission.

11. With the issuance of the revenue bonds, the City will be required to have a net operating income of at least \$20,959 to meet the 125 percent coverage ratio. The net operating income requirement on the portion of the revenue bond to be approved by the Commission is \$14,732. To determine net operating income, operation and maintenance expense and debt service are subtracted from the total

revenues of the utility. The required net operating income is calculated by multiplying the annual principal and interest payment on the bond issue by 25 percent ( $\$83,835 \times .25 = \$20,959$ ).

12. The Commission finds the bonding requirements, establishment of a reserve fund and the 125 percent coverage ratio, to be among the standard requirements for the issuance of revenue bonds, and therefore accepts the requirements.

13. The Commission finds the issuance of \$690,000 in revenue bonds (\$485,000 of which are for Commission approved capital improvements) with a maximum term of 20 years and a maximum interest rate of 10t percent, with the requirement that the City establish a bond reserve in an amount equal to the maximum principal and interest payment on the bonds and provide a debt service coverage of 125 percent, is appropriate.

14. At some date in the future, the City anticipates refinancing the Revenue Bond Issue through a loan executed with the Montana Department of Natural Resources. At the time of the loan completion, the City should file revised rates reflecting any and all modifications that would impact its debt service obligation and result in a reduced revenue requirement.

15. The Test Year in this case is the fiscal year ending June 30, 1982, adjusted for inflation.

The Applicant presented the following Test Year operation and maintenance expenses:

Personal Service	\$26,900
Supplies	5,250
Purchased Service	2,100
Utilities	450
Fixed Charges	1,400
Total Operation and Maintenance Expense	\$36,100

These expenses represent a \$3,000 increase and were not challenged by any party participating in this proceeding and are, therefore, accepted by the Commission.

16. Based upon the preceding Findings of Fact, the Commission finds the following Test Year expenses to be reasonable:

Operating Expenses	\$36,100
Debt Service	83,835
Debt Service Coverage	20,959
Total Expense	\$140,894

The Test Year expense assumes full annualized costs for the proposed revenue bond issue. The Commission chooses to calculate expenses in this manner, as it is the most reasonable way of accounting for the effect of the proposed bond issue on the operating statement of the utility.

17. The Commission, based upon Findings of Fact Nos. 10, 11, and 15, finds that the Applicant should be allowed to increase revenues by \$76,700 annually after completion of the proposed revenue bond sale. This requirement is calculated as follows:

Increase in Operation and Maintenance Expense	\$ 3,000
Debt Service	\$58,927
Debt Service Coverage	\$14,732
Total Increase In Revenue Requirement	\$76,659

18. The Applicant's present rate structure for its sewer utility is a flat percentage amount of the water useage charge (10.6% of the consumer's water bill is his monthly sewer charge). In order to qualify for EPA funding on federally mandated improvements, the Applicant has been directed to implement an equitable fee basis for assessment of sewer charges. The Applicant has presented to the EPA a single rate useage charge. The EPA has approved this rate structure, and in order not to jeopardize EPA funding, this Commission accepts the Applicant's

proposed rate structure.

#### CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding. Section 69-3-102, MCA.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate. Section 69-3-303, MCA.

3. The rates approved herein are reasonable, just and proper. Section 69-3-201.

#### PROPOSED ORDER

THEREFORE, THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The City of Shelby shall file tariffs consistent with the Findings of Fact herein, generating an annual revenue increase of \$76,700.

2. The rates approved herein shall not become effective until the first day of the first month following the sale of the revenue bonds.

3. The City of Shelby shall notify the Commission in writing of the date the bond sale is completed.

4. The City of Shelby shall notify the Commission of any refinancing of the debt obligation under consideration in this Docket, and provide sufficient information relative to the refinancing to allow the Commission to determine if a rate

adjustment is required.

5. Pursuant to ARM 38.2.4802, this is a Proposed Order. Any party shall have an opportunity to file exceptions to this initial decision, present briefs and make oral arguments before the entire Commission, provided such exceptions, briefs and requests for oral argument are presented to this Commission within twenty (20) days from the service date of this Proposed Order.

6. A full, true and correct copy of this Proposed Order will be sent to the Applicant and to other parties.

DONE AT HELENA, MONTANA, this 22nd day of February, 1984.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

Danny Oberg Commissioner and  
Hearing Examiner

ATTEST:

Madeline L. Cottrill  
Commission Secretary

(Seal)

NOTE: Any interested party may request the commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.