

Service Date: December 9, 1991

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

* * * * *

IN THE MATTER OF THE COMPLAINT)	
OF BARBARA THORMAHLEN ET AL.,)	
)	UTILITY DIVISION
Complainant,)	
)	
v.)	DOCKET NO. 84.2.6
)	
CITY OF RED LODGE,)	ORDER NO. 5572
)	
Defendant.)	

ORDER CLOSING DOCKET

Background

On January 24, 1984 the Montana Public Service Commission (Commission) received a complaint filed on behalf of Barbara Thormahlen, Mildred Donly and Mary Skupa, residents of the City of Red Lodge, Montana.

The complaint alleged that the municipality passed a resolution raising rates by a 16 percent increase in annual revenues and that this increase was not required by mandated federal or state capital improvements. The complaint further alleged that the municipality violated § 69-7-102, MCA, in failing to apply to the Commission for a rate increase, and that the 16 percent annual increase in water service rates is excessive, unreasonable and discriminatory. Complainant requested a hearing.

The Commission issued its Notice of Complaint on February 10, 1984. The City of Red Lodge answered on March 1, 1984, admitting that it had passed a resolution on January 18, 1984 to increase water rates to yield a 16 percent increase in revenues. The City attached a copy of a letter from the Water Quality Bureau, Department of Health and Environmental Sciences (DHES), dated October 20, 1980. DHES informed the City of Red Lodge of necessary improvements to the water system. The City answered that the City's resolution was for rates to cover these mandated improvements. The City requested a dismissal of the complaint.

FINDINGS OF FACT AND DISCUSSION

The Commission finds that the City of Red Lodge satisfied the complaint. The City raised its rates to cover federally and state mandated improvements. There is no showing that additional revenues were unnecessary to finance the City's share of the mandated improvements. Therefore, the Commission finds that the complaint should be dismissed.

Under Title 69, Chapter 7, the Commission's jurisdiction over a municipal rate increase request for mandated improvements is limited to the amount in excess of amounts necessary to meet the government's share of obligations for bond indentures or loan agreements. Complaints on municipal service or rate structures must properly be brought before the municipality at a municipal rate hearing and appealed to the district court, pursuant to § 69-7-113, MCA.

CONCLUSIONS OF LAW

The Montana Public Service Commission properly exercises jurisdiction over municipal utility rates, pursuant to Title 69, Chapter 7 of Montana Code Annotated.

The City of Red Lodge is a municipality with the power to establish and change municipal water rates as it considers proper. It must apply to the Montana Public Service Commission only for rate increases yielding more than 12 percent in total annual revenues or for amounts in excess of amounts necessary to meet bond indentures or loan agreements to finance mandated improvements. §§ 69-7-101 and 69-7-102, MCA.

ORDER

WHEREFORE, THE Montana Public Service Commission dismisses this complaint and closes the docket.

Done and Dated this 4th day of November, 1991 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

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