

Service Date: June 11, 1985

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

IN THE MATTER Of The Application ) DOCKET NO. 85.4.11  
Of The City of Livingston For )  
Authority To Increase Rates And ) ORDER NO. 5142  
Charges For Sewer Service. )

INTERIM RATE ORDER

FINDINGS OF FACT

1. On April 19, 1985, the City of Livingston (Applicant or City) filed an application with this Commission for authorization to increase sewer rates to its Livingston, Montana customers on a permanent basis by approximately 34.7% which constitutes an annual revenue increase of approximately \$128,150.
2. Concurrent with its filing for a permanent increase in rates, the Applicant filed an application for an interim increase in rates of approximately 11.55% equaling a revenue increase of approximately \$42,619 or 33% of the proposed permanent increase.
3. The Commission's interim rules and guidelines call for "a clear showing that the petitioning utility is suffering an obvious income deficiency" before it will grant interim rate relief.
4. Examination of the financial statements submitted by the City indicate that the City generated net operating income of \$111,276 and \$65,465 for the years ended June 30, 1982 and 1983 respectively. For fiscal year 1984 the Applicant's operating statement indicates that the City incurred an operating loss of \$10,073.
5. The City alleges that as of January 31, 1985 the sewer utility operation sustained a net operating loss of \$9,981, further the City, based upon projections, indicates that for the fiscal year ending June 30, 1985 the sewer utility will sustain an operating loss of \$48,479.

The operating statement submitted by the City for fiscal year 1985, while consistent with the City's accounting procedures, is inconsistent with this Commission's general ratemaking considerations, in that, included in the operating statement is funding in the amount of \$89,160 for a depreciation reserve. This Commission does not allow funding of a depreciation reserve for municipally owned public utilities under its jurisdiction.

6. It is the Commission's policy to avoid prejudging issues contained in a rate filing when determining need for interim rate relief. Therefore, the Commission finds it appropriate for purposes of determining a need for interim rate relief, to accept the projected expenses of the utility for fiscal year 1985, exclusive of depreciation and projected fiscal year 1985 revenues, using this criteria the Commission has determined that the Applicant will generate net operating income in the amount of \$40,681 ( $\$411,028 - \$370,347 = \$40,681$ ).

7. The Commission finds that the Applicant has not made a showing that it is suffering an obvious income deficiency and accordingly, finds the City's request for interim rate relief should be denied.

#### CONCLUSIONS OF LAW

1. The City of Livingston operates a public utility furnishing sewer service to customers in the Livingston, Montana area, and is subject to the supervision, regulation and control of this Commission. Title 69, Chapters 3 and 7, MCA.

2. Section 69-3-304, MCA provides in part, "The Commission may in its discretion, temporarily approve increases pending a hearing for final decision."

3. The Commission concludes that denial of an interim rate increase for the reasons set forth herein is just, reasonable and within the discretion granted by Section 69-3-304, MCA.

#### ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The City of Livingston is hereby denied authority to implement on an interim basis increased rates for its Livingston, Montana customers, designed to generate annual revenues in the amount of \$42,619.

DONE IN OPEN SESSION at Helena, Montana this 10<sup>th</sup> day of June, 1985 by a vote of  
5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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Clyde Jarvis, Chairman

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John B. Driscoll, Commissioner

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Howard L. Ellis, Commissioner

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Tom Monahan, Commissioner

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Danny Oberg, Commissioner

ATTEST:

Trenna Scoffield  
Commission Secretary

(SEAL)

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