

Service Date: March 9, 1990

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

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IN THE MATTER of the Application)	UTILITY DIVISION
of the BUTTE WATER COMPANY for)	
Authority to Increase Rates and)	DOCKET NO. 88.9.29
Charges for Water Service to its)	
Butte, Montana Customers.)	ORDER NO. 5382d

ORDER MODIFYING ORDER NO. 5382c

BACKGROUND

On August 17, 1989 the Montana Public Service Commission (Commission) issued Order No. 5382b denying Butte Water Company's (Applicant or BWC) request for increased rates and charges for its Butte, Montana service area.

On December 1, 1989 BWC filed an Amended Motion for Reconsideration of Order No. 5382b. Following a public hearing held January 11, 1990 on alleged changed circumstances, the Commission issued Order No. 5382c on February 21, 1990. In Order No. 5382c the Commission granted BWC its requested rate increase in the amount of \$321,253 for the Butte, Montana service area, finding that BWC had demonstrated substantially changed circumstances that warranted a rate increase as requested.

On March 1, 1990 the Montana Consumer Counsel (MCC), Intervenor, filed its Motion for Reconsideration and supporting brief. MCC did not take exception to the finding of

changed circumstances or to the grant of the \$321,253 rate increase.

MCC requested the Commission to modify Order No. 5382c to state that the grant of the "needed rate increase," based upon the finding of changed circumstances, did not amount to an acceptance of BWC's position on interest synchronization as argued prior to the August 17, 1989 Order No. 5382b.

FINDINGS AND DISCUSSION

The Commission finds, upon review of Order No. 5382c, that its grant of the rate increase of \$321,253 was based solely upon BWC's demonstration of changed circumstances and its need to demonstrate to the financial community that it is generating a reasonable return on its current rate base.

Interest synchronization was not one of the changed circumstances alleged by BWC in the Amended Motion for Reconsideration. In the hearing on January 11, 1990, neither party presented testimony or arguments on the issue of interest synchronization or raised the issue by motion prior to issuance of Order No. 5382c. For the purposes of Order No. 5382c no consideration was given to any previous arguments on this issue. The decision to grant the rate increase as requested was based upon the demonstration of changed circumstances and BWC's good faith efforts to obtain financing and investment in necessary improvements.

Because MCC takes no exception to the rate increase as based upon changed circumstances, the Commission will treat its Motion for Reconsideration as a request for clarification and will modify Order No. 5382c only to the extent necessary to clarify Finding No. 15 on interest synchronization. Under no circumstances does Order No. 5382c constitute a determination on or acceptance of

BWC's position on the use of synchronized interest to calculate interest expense for income tax purposes.

CONCLUSIONS OF LAW

The Montana Public Service Commission is vested with full power of supervision, regulation and control of public utilities, pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA). § 69-3-102, MCA.

Butte Water Company is a public utility as defined in § 69-3-101, MCA, and therefore, subject to the Commission's jurisdiction.

Montana Consumer Counsel appears before the Commission as the representative of the consuming public and intervenes in proceedings involving regulated utilities. § 69-2-201, et seq., MCA.

The Commission may modify an order upon a motion for reconsideration. ARM 38.2.4806.

ORDER

Wherefore, the Commission modifies Finding of Fact No. 15 in Order No. 5382c to state the following: Finding of Fact No. 42. The grant of Butte Water Company's application for a rate increase of \$321,253 upon the rehearing on changed circumstances does not constitute an acceptance of the Applicant's position on interest synchronization. The rate increase is granted on the bases of the Applicant's demonstration of changed circumstances, its need for the rate relief to provide cash flows to plan major improvements and its need to demonstrate to potential investors that the goal of improved service is not impeded by the regulatory process.

Done and Dated this 7th day of March, 1990 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Vice Chairman

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.