

**BEFORE THE
MONTANA PUBLIC SERVICE COMMISSION**

**Pre-filed Testimony of Sandra Barrows
on Additional Issues
On Behalf of Utility Solutions, LLC**

Dockets No. D2005.11.163 and D2005.11.164

Q. Please identify yourself.

A. My name is Sandra Barrows. I am the same Sandra Barrows who pre-filed direct testimony in this docket in support of the Amended Applications of Utility Solutions for initial rates for water and waste water service. My qualifications are set out in my earlier testimony.

Q. What is the purpose of this testimony?

A. The purpose of this testimony is to address the additional issue identified by the Commission in its January 8, 2010, Notice of Additional Issue (Notice). I should note at the outset that under the circumstances of this case, that is a challenging task.

Q. Please explain why you just indicated that it is a challenging task to address the additional identified in the Notice.

A. Normally, additional issues are identified by and raised by the Commission's Staff. The Staff prepares a Memorandum for the Commission in which it explains its rationale for raising the additional issues it has identified in the Memorandum, and which it believes the parties should address to the Commission. When the parties address the additional issues recommended by the Staff to the Commission, they can rely upon the Staff Memorandum to provide a context to the additional issue identified by the Commission.

In this case, the Commission correctly rejected the additional issue identified and raised by the Staff in its Memorandum. Because of that, there is a mismatch between the additional issue identified by the Commission in its Notice, and the Memorandum submitted to the Commission by its Staff. The parties cannot rely upon the Staff Memorandum to provide a context for the additional issue identified by the Commission in its Notice.

That is significant, because the Commission's administrative rule referenced in its Notice, ARM 38.5.110, is part of its minimum rate case filing standards, which are general guidelines for preparing a rate filing. If the accounting reference in ARM 38.5.110 applies to the filing I prepared on behalf of Utility Solutions in this case, so does the provisions of ARM 38.5.184, which states in pertinent part:

The Commission shall, within 30 days of filing by the utility of an application for rate increases, notify the utility of any failure of the application to comply with requirements of these rules.

Not only has the 30 day deadline in this case long since passed, the proceedings in these dockets have progressed to the point that Utility Solutions and the Montana Consumer Counsel have filed a stipulated revenue requirement with the Commission for its consideration and approval.

Based upon my experience as a rate analyst employed by the Commission, I do not believe that the Commission would seriously consider at this late date making a determination that the filing I prepared on behalf of Utility Solutions was deficient. Not only would such action violate the Commission's own rules, it would be incredibly punitive. My training as a rate analyst for the Commission, and my experience working as a rate analyst for the Commission, will not allow me to believe the Commission was contemplating or intending such unreasonable action when it issued its Notice. Since I cannot look to the Staff Memorandum as context for what the Commission did intend, I have to make an informed judgment as to the real nature of the Commission's inquiry.

Q. Please explain why you said that the Commission correctly rejected the additional issue identified and raised by the Staff in its Memorandum.

A. The Staff's Memorandum is Exhibit 1 to this testimony. In a nutshell, the Staff indicated that the Montana Commissioner of Political Practices had determined that Barbara Campbell opposed the candidacy of Art Wittich and favored the candidacy of Larry Jent in their 2006 state senate race, and that her advocacy, and the expenses she incurred in presenting that advocacy, violated Montana's campaign finance laws. The Memorandum concluded:

The occurrence was in 2006, an election year. 2008, the test year that Utility Solutions is submitting for rates, was an election year as well. Given that Utility Solutions does not maintain a General Ledger, and that improprieties occurred in an election year, it will be necessary to re-examine all the expenditures of Utility Solutions for the test year period.

The additional issue is to assure the Commission that no improprieties occurred and if improprieties did occur to make sure they are not included as expenses...

In its deliberations, the Commission correctly noted that what Barbara Campbell did in that 2006 state senate race has no bearing on the reasonableness of the costs Utility Solutions incurred to provide water and waste water service in the 2008 test year I used to prepare its Amended Applications for initial water and waste water rates. Indeed, even if Barbara Campbell had involved herself in a 2008 political race in the identical fashion she involved herself in the Wittich-Jent race, it would not have

made an iota of difference in the cost of service I prepared and presented to the Commission in this case. Expenditures in a political campaign, whether incurred in accordance with, or in violation of, Montana's campaign finance laws are not includable in a utility's cost of providing regulated services.

- Q. Please address the Commission inquiry identified in its notice. Did you use the NARUC or Federal Power Commission classifications in their charts of accounts in preparing the Amended Applications for water and waste water service filed in this docket?
- A. No, I did not. As the Commission's Staff already knows from its work in this docket, including its on-site audit of the books and records of Utility Solutions, the company does not maintain a set of regulatory books prepared in accordance with the NARUC or Federal Power Commission charts of accounts. If the company does not maintain a set of regulatory books prepared in accordance with those charts of accounts, I cannot prepare a rate filing for the company which uses the classifications contained in those charts of accounts.
- Q. Should the lack of such regulatory books be of concern to the Commission in this case?
- A. No, it should not. The goal in a general rate case proceeding is to fairly estimate the cost of providing service in the future based upon a historic test year measure of cost, adjusted for known and measurable changes. Not only must the cost estimates be reasonable, the cost of preparing such estimates must be reasonable, as it is the ratepayer which bears the cost of preparing the estimates. If reasonable test year measures of historic cost can be efficiently made without incurring the expense of creating and maintaining a separate set of regulatory books, the Commission should applaud the avoidance of the expense.
- Q. Do you have an opinion as to whether the Commission should institute a policy in future rate cases of requiring a general rate case for a water utility to be prepared in strict conformity with the NARUC or Federal Power Commission charts of accounts?
- A. I do.
- Q. What is your opinion?
- A. In my opinion, not only should the Commission not implement such a policy, it would be disastrous for the rate payer if the Commission did implement such a policy.
- Q. Please explain the basis for your opinion.
- A. If there is no rate payer benefit to a particular rate making regime or policy, there is no reason to impose such a regime or policy upon the provider of the services. The question posed by the Commission in its Notice needs to be addressed by asking whether the ratepayer would likely benefit by requiring water and wastewater utilities

to create and maintain the set of regulatory books required to prepare and present rate case filings in strict conformity with the NARUC or Federal Power Commission charts of accounts. The answer is clearly no.

Almost all of the water and wastewater utilities under the jurisdiction of the Commission are small enterprises. They do not have, and cannot afford to develop, the kind of expertise necessary to create and maintain regulatory books in accordance with the NARUC or Federal Power Commission charts of accounts. Utility Solutions is not an exception to that general rule. The water and waste water revenue requirements developed by the Montana Consumer Counsel in this case, and reflected in the stipulation between that office and Utility Solutions, are only \$238,077 and \$251,877 respectively.

If the Commission requires its jurisdictional water and wastewater utilities to create and maintain a set of regulatory books in accordance with the NARUC or Federal Power Commission charts of accounts as a condition of the Commission's consideration of future rate filings, they will have to locate and retain outside consultants that have the necessary expertise to do the work necessary to comply with such a regulatory regime. I believe the cost of complying with such a regulatory regime would easily become the single greatest operating expense of almost every water and wastewater utility subject to the Commission's jurisdiction.

I am not sure there are any certified public accountants in Montana available to the Commission's jurisdictional water and wastewater utilities that have the expertise and training necessary to create and maintain a set of regulatory books in strict accordance with the NARUC or Federal Power Commission charts of accounts. In all likelihood, most of the water and wastewater utilities under the Commission's jurisdiction would have to turn to the kind of regulatory specialists that can only be found in the large national consulting firms. That would be a very expensive proposition. The resulting cost impact on the Commission's jurisdictional utilities would likely be huge, and the rate payer impact disastrous.

Q. Does this conclude your testimony?

A. Yes it does.

Memo

Date: 01/04/2010

To: Commission

From: Leroy

Re: Utility Solutions Docket D2005.11.163 & D2005.11.164

The MCC and Staff conducted an on-site examination of the records and facilities of Utility Solutions on October 29-30, 2009. Discovery on the examination closed November 13, 2009. On November 17, 2009, the Commission of Political Practices (CoPP) issued a decision stating that the Campbell Committee violated 13-37-201MCA by failing to file an organizational statement. In the decision, the CoPP determined that the office of Utility Solutions was used for political purposes.

The occurrence was in 2006, an election year. 2008, the test year that Utility Solutions is submitting for rates, was an election year as well. Given that Utility Solutions does not maintain a General Ledger, and that improprieties occurred in an election year, it will be necessary to re-examine all the expenditures of Utility Solutions for the test year period.

The additional issue is to assure the Commission that no improprieties occurred and if improprieties did occur to make sure they are not included as expenses being allocated to the Elk Grove residents.

Attached is the decision of the CoPP.

