

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

IN THE MATTER of the Application of)
Utility Solutions, LLC to Implement) UTILITY DIVISION
Initial Rates and Charges for Water Service)
in its Elk Grove Subdivision, Gallatin) DOCKET NO. D2005.11.163
County, Montana Service Area)

Consolidated with

IN THE MATTER of the Application of)
Utility Solutions, LLC to Implement) UTILITY DIVISION
Initial Rates and Charges for Wastewater)
Service in its Elk Grove Subdivision,) DOCKET NO. D2005.11.164
Gallatin County, Montana Service Area)

NOTICE OF COMMISSION ACTION

1. On January 8, 2010, Utility Solutions, LLC (USLLC), filed consolidated motions seeking (1) partial vacation of the procedural schedule, and (2) a change in the hearing date.

Motion to Partially Vacate

2. USLLC asserted that the pre-hearing procedures leading up to a contested case hearing are unnecessary and should be vacated because USLLC and the Montana Consumer Counsel (MCC) have negotiated a comprehensive settlement of the issues between them.

3. Although not specifically stated, USLLC's assertion seems to assume that the Commission is a mere tribunal weighing the positions of the parties before it.

4. For the Commission to approve a settlement in a rate case, it must determine that the resulting rates are just and reasonable. Such a determination cannot rest solely on the unexamined representations of the parties to the settlement. The Commission uses its staff for an advisory/investigatory function. Staff, through cross-examination and introduction of data responses, seeks to ensure that the record will permit the Commission to make a reasoned

decision. The pre-hearing procedures facilitate staff performing its necessary function.

5. The remaining pre-hearing procedures in these consolidated dockets include USLLC's initial testimony on an additional issue, intervenor additional issue testimony, USLLC's additional issue rebuttal testimony, USLLC's rebuttal testimony, if any, and written discovery on all testimony. Information developed by each of these procedures may inform the Commission's consideration of the settlement.

6. The Commission cannot conclude that the remaining pre-hearing procedures are unnecessary. The Commission DENIES USLLC's Motion to Partially Vacate Procedural Order.

Motion to Change Hearing Date

7. USLLC noted that the week of March 29th through April 2nd is Spring Break in the Helena School system and asserted that some of the hearing participants may be desirous of spending that time with their families. USLLC requested that the hearing be rescheduled to either an earlier date or to the week of April 5th through 9th.

8. The Commission's decision on the Motion to Partially Vacate precludes holding a hearing at an earlier date.

9. The Commission GRANTS USLLC's Motion to Change Hearing Date and schedules the hearing for April 7, 2010. The Commission is required to hold the hearing near the Elk Grove subdivision and intends to hold the hearing in the evening to encourage the maximum public participation. The Commission will issue a Notice of Public Hearing at a later date.

Done and dated this 21st day of January 2010.

BY THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman
KEN TOOLE, Vice-Chairman
GAIL GUTSCHE, Commissioner
BRAD MOLNAR, Commissioner
JOHN VINCENT, Commissioner