MASTER FILE

Service Date: October 25, 2007

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 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	)	ORDER NO. 6707a

PROCEDURAL ORDER

NOTE: PLEASE READ CAREFULLY. PROVISIONS OF THIS ORDER MAY MODIFY PREVIOUS PSC PROCEDURAL AND SCHEDULING POLICY. THIS IS NOT A PROPOSED ORDER. RECONSIDERATION IS AVAILABLE FOR GOOD CAUSE.

Introduction

1. The Public Service Commission (PSC), itself or through delegation to PSC staff, hereby establishes the procedure and schedule to be followed in the above Utility Solutions, LLC (USLLC) docket. Any request for reconsideration of this Order must be submitted to the PSC within 10 days of the service date above. A request for reconsideration will be scheduled for the PSC's next available business meeting following the request and the parties will be informed of the action taken. This Order is effective immediately and remains effective unless and until modified by action of the PSC.

Schedule

2. All dates listed in the following schedule are receipt dates (filing and service) unless otherwise specified. Dates prior to the time for intervention as a matter of right are approximate and for reference purposes only. Dates marked "*" are for additional issue procedures, as needed, if needed. If an additional issues procedure is determined to be unnecessary, dates marked "#" may change to an earlier date. Discovery requests on the Applicant's application may be submitted at any time up to the discovery date fixed by this schedule. Discovery requests served prior to that date must

be answered by the Applicant within 14 calendar days of service. All other discovery requests must be answered by the response date fixed by this schedule.

(a) August 14, 2007: Utility's application received by PSC.

(b) August 27, 2007: Notice of Application and Intervention Deadline issued by PSC.

(c) September 14, 2007: Final day for intervention as a matter of right.

(d) November 28, 2007: Final day for written discovery (includes data requests) to Utility on Utility's application and pre-filed testimony.

(e) December 12, 2007: Final day for Utility to respond to discovery on Utility's application and pre-filed testimony.

(f) December 28, 2007: Final day for initial pre-filed testimony from intervenors.

(g) *January 9, 2008: Additional issues identified by PSC staff.

(h) January 9, 2008: Final day for written discovery on intervenor pre-filed testimony.

(i) *January 16, 2008: Final day for Utility's initial testimony on additional issues.

(j) *January 23, 2008: Final day for written discovery on Utility additional issues testimony.

(k) January 23, 2008: Final day for intervenors to respond to written discovery on pre-filed testimony.

(l) *January 30, 2008: Final day for Utility response to written discovery on additional issues.

(m) February 6, 2008: Final day for Utility rebuttal testimony and intervenor response testimony, if any, to intervenor pre-filed testimony.

(n) *February 6, 2008: Final day for intervenor testimony on additional issues.

(o) February 20, 2008: Final day for discovery on Utility rebuttal testimony and intervenor response testimony, if any.

(p) *February 13, 2008: Final day for discovery on intervenor additional issue testimony.

(q) March 5, 2008: Final day for Utility to respond to discovery on Utility rebuttal testimony and intervenors to respond to discovery on intervenor response testimony, if any.

(r) *February 20, 2008: Final day for intervenor response to discovery on additional issue testimony.

(s) *February 27, 2008: Final day for Utility rebuttal testimony and intervenor response testimony, if any, to intervenor pre-filed testimony on additional issues.

(t) *March 5, 2008: Final day for discovery on Utility rebuttal testimony on additional issues.

(u) *March 12, 2008: Final day for Utility to respond to discovery on Utility rebuttal testimony on additional issues.

(v) March 14, 2008: Final day for Pre-hearing Memorandum.

(w) March 19, 2008: Hearing commences and continues from day to day until concluded (daily transcript).

(x) April 9, 2008: Utility's and Intervenors' Simultaneous Initial Post-hearing Briefs.

(y) April 23, 2008: Utility's and Intervenors' Simultaneous Post-hearing Response Briefs.

(z) May 14, 2008: Nine months from Utility's application, target date for Final Order.

3. In addition, satellite hearings and various pre-hearing conferences may be separately scheduled.

Ex Parte Communications

4. This proceeding is a contested case proceeding. In contested case proceedings most *ex parte* communications are prohibited. An *ex parte* communication is one between (i.e., to or from) a Commissioner and any person associated with a party in the contested case, when the communication involves the contested case or an issue in

the contested case and all other parties to the contested case have not been given a reasonable opportunity to participate in the communication. PSC Commissioner receipt or conveyance of *ex parte* communications is prohibited by law. § 2-4-613, MCA. Party receipt or conveyance of *ex parte* communications is prohibited by law. Id. A few categories of *ex parte* communications, some pertaining to procedure and scheduling, may be allowed by law and are not prohibited (e.g., emergency motion for extension of time). Id. Any oral, written, electronic, or other form of communication of any kind, between (i.e., to or from) a PSC Commissioner and any person associated with any party to a contested case pending before the PSC may be or may include, inadvertently or otherwise, a prohibited *ex parte* communication. Parties and Commissioners being ever alert to this possibility, the prohibition applicable, and the corrective action necessary is extremely important in regard to any face-to-face, phone, letter, e-mail, or other encounter involving a party and a Commissioner.

Procedure

General

5. Unless otherwise stated in this Procedural Order the procedure governing this contested case is set forth in applicable provisions of: (a) Title 69, MCA, public utilities; (b) Title 2, Chapter 4, MCA, MAPA; (c) ARM Title 38, Chapter 2, procedural rules of the PSC; (d) tariffed procedures; and (e) previous Orders of the PSC bearing specifically on the procedure and issues in this docket, if any.

Service and Filing

6. Copies of all pleadings, motions, discovery requests, discovery responses, pre-filed testimony, briefs, and other documents shall be filed with the PSC and served on all parties ("parties" includes the Applicant and all intervenors). In the case of a filing directed to the PSC, such as motions, testimony, and briefs, the original and 10 copies shall be filed. Service upon the parties shall be upon each party's attorney of record and such other individuals as may be reasonably designated by the attorney of record.

7. Service and filing by means of facsimile transmission is prohibited. Deadlines for service and filing are deadlines for the service and filing of the original and copies as required. If service is made by mail, service is complete upon depositing in the

mail. Deadlines for actions to be taken in response to service are not extended by three days for service by mail.

Intervention

8. Parties seeking to intervene must file a Petition to Intervene with the PSC. So long as the time set for intervention as a matter of right is met, intervention shall be deemed granted subject to a later ruling on standing (if necessary). In the case of late intervention, the intervenor must: (a) identify the general position that the intervenor will take if the intervention is granted; (b) demonstrate a legally protectable interest directly affected by this docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding in this docket; and (d) good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the PSC.

Discovery

9. The term "discovery" includes all forms of discovery authorized by rules of the PSC. The term "written discovery" as used in this order includes data requests. The PSC urges all parties to conduct discovery through the use of data requests as the preferred method of discovery.

10. The PSC directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign their data requests a request number (e.g., MCC-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to the Applicant, PSC-009 through 016 to an intervenor, and PSC-017 through 019 to the Applicant).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number, page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests

and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Multi-part requests may be used, each part denoted by a lower case letter (a, b, c, d, and e). Requests must be limited to five (a-e) parts. If additional parts are necessary additional requests must be made. A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500 RE: Purchased Gas Contracts
Witness - Doe, Page JBD-4, Lines 13-15.

Please provide the origination and expiration date for each contract.

PSC-501 RE: Bypass
Witness - Roe, Page RAR-14, Lines 11-14.

a. What risks of bypass would be avoided by the shareholders as a result of the company's proposed treatment?

b. What risks of bypass would be avoided by the ratepayers as a result of the company's proposed treatment?

11. The party receiving the written discovery or data request has seven calendar days from service to object. The objection and notice thereof shall be filed with the PSC and served on all parties. The PSC may dispose of objections by prompt ruling or may schedule arguments. Failure to timely object will be deemed acceptance of the request.

12. Any requesting party dissatisfied with the response to any written discovery or data request and desiring PSC action to compel, must, within seven calendar days after service of such response, file before the PSC and serve all parties, the objection or motion and identify the relief requested. The PSC may dispose of such objection by

prompt ruling or may schedule argument. The PSC will act to either sustain or overrule the objections. If an objection is sustained, a time period will be set within which a satisfactory response must be made.

13. Submission of written discovery, by parties or staff, after the deadline established will be allowed either by agreement of the responding party, or by leave of the Commission. Requests to submit written discovery after the deadlines are discouraged, but parties are encouraged to agree to reasonable requests that can be accommodated while maintaining the schedule. The Commission will not grant requests to submit late discovery without a showing of good cause, which must include a showing why the discovery was not timely submitted.

14. Unless excused by the PSC, failure by a party to answer data requests or other discovery from any party may result in: (a) action refusing to allow the failing party to support or oppose related claims; (b) action prohibiting introduction of related matters in evidence; (c) action striking pleadings, testimony, or parts thereof; (d) action staying further proceedings until the request is satisfied; or (e) action dismissing the case, defense, proceeding, or parts thereof.

Testimony and Evidence

15. The PSC contemplates a complete identification of issues prior to the time of hearing. Introduction of new issues or data in new areas at the time of hearing will be carefully scrutinized and will be subject to disallowance unless reasonably related to issues earlier identified in the application, pre-filed testimony, or proceedings.

16. At hearing, pre-filed direct, answer, and rebuttal testimony (including on additional issues) will be adopted into the record by motion of the proponent without the need of recitation by the witness. The testimony will be an exhibit and not otherwise entered into the transcript.

17. All proposed exhibits and pre-filed written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter and presiding officer for the preferred manner of identifying exhibits.

18. When cross-examination is based on a document, not previously filed with

the PSC, copies of the document must be made available to each commissioner, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each commissioner, the PSC staff, and all parties. This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, and if previous arrangements have been made with the PSC and all parties.

19. Parties may be permitted to present live rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness. Such testimony will be allowed only by leave of the PSC or presiding officer.

20. Citizens and citizen groups will, in the discretion of the PSC, be allowed to make statements without having submitted prepared written testimony. In addition, if they have prepared written testimony they may read it if they desire, or they may have it adopted directly into the record.

21. The Montana Rules of Evidence in effect at the time of the hearing in this docket will govern at the hearing.

22. Any party to this proceeding having responded, itself or through agents, to written discovery from any other party or the PSC, shall have all persons authoring each response present and available as a witness at the hearing for the purposes of introduction of the discovery and cross-examination thereon. Reasonable alternatives to this requirement, such as waiver of objection to introduction absent the author and waiver of right to cross-examine, agreed to by the parties may be accepted if approved by the PSC. Written discovery (not including transcripts of depositions on oral examination) and data requests will not be introduced at hearing unless done in accordance with applicable rules of evidence and through an appropriate witness subject to cross-examination or upon stipulation approved by the PSC.

Pre-hearing Motions and Conferences

23. Motions by any party, including motions to strike pre-filed testimony and motions concerning any procedural matter connected with this docket, shall be raised at

the earliest possible time. Non-moving parties may file and serve response briefs to a pre-hearing motion within seven calendar days of the date of service. If any party files and serves a brief in opposition to a pre-hearing motion, the moving party may file and serve a reply brief within five calendar days of service. Pre-hearing motions shall be submitted on briefs unless otherwise requested by a party and approved by the PSC. If oral argument is granted, the party requesting oral argument shall, after scheduling with the PSC, notice the same for hearing before the PSC.

24. The PSC may, at any time prior to the hearing, set a pre-hearing conference for discussion of, among other things, the feasibility of settlement of any issues in the proceeding, the simplification of issues, the possibility of obtaining admissions of fact and documents, the distribution and marking of written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

25. Nothing in this Order shall be construed to limit the legally established right of the PSC or its staff to inspect the books and accounts of the Applicant at any time.

Pre-hearing Memorandum

26. The Pre-hearing Memorandum shall be from each party unless the parties agree to file jointly. It shall contain a list of all issues determined to be uncontested, all issues determined to be contested, witnesses intended to be called to testify or stand cross-examination, exhibits intended to be introduced, and discovery (including responses to data requests), to date, intended to be introduced at hearing. Identified responses to data requests to be introduced at hearing will be accompanied by a proper identification of the request, the witness responsible for the response, and the issue to which it relates. Any special needs to accommodate witness sequence or scheduling should be identified in the Pre-hearing Memorandum.

Open Meetings

27. All PSC meetings regarding this docket are open meetings except as otherwise required or permitted by law. Parties will not routinely be notified of PSC business meetings or work sessions that may pertain to discussion or action on matters

within this docket. Notification of PSC work sessions concerning this docket will be provided to all persons requesting notification through the PSC's weekly agenda mailing list.

Done and dated this 24th day of October 2007 by delegation to PSC staff as an Order of the PSC.

BY THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman
DOUG MOOD, Vice-Chairman
BRAD MOLNAR, Commissioner
ROBERT H. RANEY, Commissioner
KEN TOOLE, Commissioner

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