Service Date: October 30, 2012

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

* * * * *

IN THE MATTER OF AQUANET, INC.,	)	REGULATORY DIVISION
Application for Approval of Initial Rates and	)	
Charges for Water Service in its Billings,	)	DOCKET NO. D2009.12.156
Montana, Service Area	)	ORDER NO. 7056f

FINAL ORDER

History

1. On December 12, 2009, Aquanet, Inc. (Aquanet) filed an application before the Montana Public Service Commission (PSC or Commission) for approval of initial rates and charges for water service provided to its 80 customers in the Oakridge subdivision near Billings, Montana. In its application, Aquanet requested initial interim rates of $75 per month per connection, $100 disconnect/reconnect fee, and a $20 past due fee for users who are in excess of 10 days past due.

2. On December 22, 2009, the Commission issued Interim Order No. 7056, which granted Aquanet, on an interim basis, rates of $50 per connection per month, a disconnect/reconnect charge of $100 per occurrence, and a late charge of $10 after a 30-day grace period from the statement date. Aquanet was also directed to file an application for permanent rates based on a 2009 test year of income and expenses and make the filing no later than September 30, 2010.

3. On September 30, 2010, Aquanet filed an amended application (Application) in which it requested Commission approval of an annual revenue requirement of $91,786, which would increase its annual revenues by $43,711.

4. On December 1, 2010, the PSC granted intervention to the Montana Consumer Counsel (MCC). MCC submitted its prefiled testimony on March 4, 2011.

5. On August 19, 2011, Aquanet and the MCC filed a Stipulation with the Commission in which the parties recommended the Commission approve a flat rate of $80 per month per connection to recover a revenue requirement of $76,800.

6. Aquanet filed a Motion for Interim Rate Relief on August 24, 2011. On August 30, 2011, the Commission issued Interim Order No. 7056c, which granted interim rates of $80 per month effective September 1, 2011.

7. A public comment hearing was held on November 21, 2011, in Billings. In order to minimize rate case expenses, the technical hearing (First Hearing) was held in Helena on December 7, 2011.

8. On March 7, 2012, the Commission issued an Order Denying Stipulation (Order No. 7056e). In the Order, the Commission reset the remainder of the procedural schedule to allow Aquanet to submit rebuttal testimony and respond to discovery.

9. On June 7, 2012, the Commission held a hearing (Second Hearing) in Helena to receive into the record Aquanet's rebuttal testimony.

10. Aquanet and the MCC submitted post-hearing briefs.

Discussion and Findings of Fact

11. Aquanet has been providing water service to the residents of the Oakridge subdivision since 2001. (Second Hearing Tr., p. 86) Aquanet is owned by Dan and Julane Wells, who also own Wells Built Homes, which is the company that developed the subdivision, and Regal Land Development (RLD), the company that financed the utility. It was not until 2009 that the Commission became aware of Aquanet's existence as a jurisdictional utility as the result of a customer complaint and required the utility to establish Commission-approved tariffed rates. This is not an unusual circumstance in the realm of small water utility regulation.

12. In its Application to establish initial rates using 2009 as the test year, Aquanet requested that the Commission authorize a $95.61 per month flat rate charge based upon an annual revenue requirement of $91,786. (Ex. Aquanet-1, p. 4, and 38.5.104 Comparison of Rates) If approved, the annual revenue requirement would increase by $43,711 over the revenue level at the time of the Application and the requested rate would be a 91% increase. (*Id*.) Aquanet requested the Commission use a hypothetical capital structure of 55% equity/45% debt and approve an overall rate of return of 8.65% based on a return on equity (ROE) of 10% and debt cost of 7%. The proposed rate base value was $206,952. (*Id*., Exhibit SB-1, p. 1)

13. In its response testimony, MCC recommended an annual revenue requirement for Aquanet of $66,648 and a flat rate of $69.43 per month. (Ex. MCC-1, p. 2) The major

adjustments to Aquanet's expenses and rate base recommended by MCC witness Paul Schulz to arrive at his significantly lower proposed revenue requirement were the following:

a. He reduced Aquanet's total accounting expense recovery of $21,740 by $14,710 by adjusting downward the hourly rates for accounting and amortizing the accounting expenses over 3 years rather than the 2 years proposed by Aquanet. (*Id*., pp. 4 and 5) Schulz used 2010 local market wage data from the U.S. Bureau of Labor Statistics (BLS) to derive his proposed hourly rates for accounting services of $15.72, $20.23, and $29.33 per hour. (*Id*., p. 4)

b. Schulz allocated just 25% (5,000 square feet) of the lot (a total of 20,000 square feet) on which the pump house sits to the utility, which resulted in a 75% or $9,126 adjustment to the Land account, an $11,238 reduction of the Landscape and Fence line item in Aquanet's plant costs, and 75% reductions in Landscape/Fence and Landscape Maintenance depreciation expenses. (*Id*., pp. 7-8)

c. Citing the non-utility uses of the workshop area of the pump house that he said should not be supported by utility ratepayers, Schulz calculated that 66.14% of the total square footage of the pump house structure (the workshop area) was used for non-utility purposes. This adjustment removed from the proposed rate base $4,208 of the total $6,362 cost of the pump house. (*Id*., p. 8)

d. He did not contest Aquanet's line item for professional expenses incurred for the rate case, but amortized the utility's professional rate case expenses over three years rather than the two years proposed by Aquanet, resulting in a downward adjustment of then-incurred expenses of $2,667. (*Id*., p. 6)

e. Schulz reduced system operator and water testing expenses by $2,914 by averaging them over a three-year period. (*Id*., p. 6)

f. Schulz removed $4,684 in income tax expense because Aquanet, as a Subchapter S corporation, does not pay income tax. (*Id*., p. 10)

g. Schulz adjusted the calculation of net working cash total to $4,331. (*Id*., pp. 10-11)

h. He adjusted out 10% of the electric utility expense for the pump house structure as non-utility (*Id*., p. 9)

14. MCC recommended the Commission approve a 7% overall rate of return based on Aquanet's actual capital structure of 0% equity and 100% debt. (*Id*., p. 11) Schulz observed that 7% reflects the utility's actual cost of capital. (*Id*.)

15. Prior to the date Aquanet's rebuttal testimony was due to be filed, Aquanet and the MCC proposed the Stipulation as a settlement of the issues in this case. The Stipulation included the following components:

a. Aquanet should be authorized in its final rates entered in this docket, an annual revenue requirement of $76,800, which is a monthly flat charge of $80 per month per connection;

b. A disconnect charge of $100 per each occurrence;

c. A reconnect charge of $100 per each occurrence;

d. A late charge of $10 if the balance is 30 days past the due date as specified on the payment coupon;

e. An inspection fee of $100 per each occurrence;

f. A returned check charge of $25; and,

g. A hydrant connection fee of $100 per occurrence.

16. At the December 2011 hearing (First Hearing), the Commission requested Aquanet to file three late-filed exhibits: (1) information or accounting of costs associated with landscaping and fencing the land on which the pump house is located; (2) cost of capital information for RLD, through which Aquanet obtained its financing; and (3) information concerning any possible agreements that were made between Oakridge homeowners and Wells Built Homes relating to the ownership of the water system, its component parts and/or representations made at the time of sale concerning water service in the Oakridge subdivision. (First Hearing Tr., p. 106)

17. In response to the first request, Aquanet provided a line item breakdown of its landscaping and fence expenses totaling $14,985, but stated it could not provide receipts for the line items because the utility does not retain receipts for expenses incurred so long ago. (Aquanet Late-Filed Exhibits, p. 1 and Exhibit 1-1, dated January 5, 2012)

18. Aquanet responded to the request for information about RLD by stating that RLD is not a party to the docket, and as a result Aquanet cannot obtain its financing information. (*Id.*, p. 1) Aquanet contended that the Commission is not empowered to obtain such information for entities it does not regulate. (*Id.*, p. 1) Aquanet provided a letter from Yellowstone Bank, the lender for RLD, stating that Aquanet's cost of capital is reasonable and that the bank would not have loaned money to Aquanet, given the inadequate cash flow and lack of collateral. (*Id.*, Exhibit 2-1)

19. In response to the request for information about agreements, Aquanet submitted a standard Oakridge buy-sell agreement. (*Id.*, Exhibit 3-1 to 3-9)

20. In its Order Denying Stipulation, the Commission said it did not have the necessary information to allow it to approve the Stipulation and indicated more analysis of Aquanet's application was required. (Order 7056e, ¶ 15) Specifically, the Commission identified rate base, rate of return, and capital structure as issues requiring further development. (*Id*.) Aquanet subsequently submitted its rebuttal testimony. In its rebuttal case, Aquanet proposed an updated annual revenue requirement of $89,403 based on an 8.65% return on a rate base of $206,062. (Ex. Aquanet-2, p. 12) The revised revenue requirement would result in a monthly rate of $93.13 per connection. (*Id*.) Adjustments made by Aquanet witness Barrows included an increase in estimated rate-case-related professional expenses from $16,000 to $31,193, which she agreed with MCC should be amortized over three years. (*Id*., p. 2) Aquanet also accepted MCC's reduction to system operator expense and lab testing and its calculation of working cash. (*Id*., p. 3)

21. Barrows revised her proposed accounting expense down to $17,223, but she disagreed with Schulz's full adjustment to her proposed accounting expense. (*Id*., p. 6) Barrows amended her previously proposed multiple rates for non-CPA accounting hours, which ranged from $30 to $60, to one single rate of $35 per hour. (*Id*.)

22. She argued that Schulz incorrectly assumed that her proposed $125 hourly rate for CPA-type accounting services included overhead costs that were accounted for separately in this docket when, according to Barrows, they were not. (*Id*., pp. 4-5) Barrows supported her proposed independent accountant rate by citing the testimony of a CPA and expert witness in another recent water utility rate hearing that his billable rate was $240 per hour and that the average rate for all levels of accounting work performed by accounting firm Anderson ZurMeuhlen & Co. was $100 per hour. (*Id*., p. 5) Barrows questioned the accuracy of the reported local market wage data that Schulz used from the BLS to derive his proposed hourly rate. (*Id*., p. 6)

23. Barrows disputed the MCC's proposed adjustments related to the pump house. She argued that Schulz was incorrect to remove <u>all</u> costs related to the workshop area that is connected to the pump house because the area is used both for utility- and non-utility-related repair and maintenance tasks. (*Id*., p. 8) She estimated it is used no more than 25 days per year for non-utility purposes. (*Id*., p. 9) According to Barrows, her proposed rate base value of $6,362 for the pump house already significantly understates its actual value because it accounts

only for the cost of materials and does not include the construction labor costs. (*Id*.) Barrows contended that no pump house adjustment is required; however, she said if the Commission decides an adjustment is necessary, it should restate the value of the pump house at $30,000 and use an annual adjustment of $57.08 for 25 days of non-utility use of the workshop area (imputed at a charge of $2.28/day). (*Id*., pp. 9-10) Alternatively, she suggested the Commission could base the adjustment on 25 out of 365 days. (*Id*., p. 10)

24. Regarding the issues of the appropriate capital structure and rate of return to be set for Aquanet, Barrows maintained that the Commission has traditionally calculated the overall rate of return for small water utilities by using the elements she has proposed in this case: a hypothetical capital structure, the most recent Mountain Water Co. ROE, and the utility's actual debt cost. (*Id*., p. 10) She argued that Schulz's capital structure recommendation was made with a goal in mind to produce the lowest rates possible instead of to produce just and reasonable rates that provide the utility the opportunity to earn a fair return. (*Id*., p. 11)

25. At the time of the Second Hearing, the contested issues between the parties in the case had been narrowed to accounting expense, rate base adjustments, and capital structure and rate of return. The Commission's decisions on those issues are discussed below, as well as decisions made as a result of its own analysis.

<u>Rate base, cost of capital, and affiliate transaction concerns</u>

26. The Commission struggles to determine the rate base for small water utilities such as Aquanet that are built and operated by the developers of the subdivisions whose residents are being served by the utilities. Often, as in this case, the utility owner becomes aware of the fact that he or she is operating a regulated utility subject to Commission jurisdiction several years after the utility started providing service to customers. In proceedings to establish initial rates for these utilities, it is difficult, if not impossible, to determine how much of the cost of the water utility system, if any, was included in the price of the lots purchased by homeowners and, therefore, should not be included in rate base. In all cases, it is the utility's burden to support its proposed rate base value with testimony, exhibits and data.

27. Aquanet filed its Application in this docket in accordance with the Commission's minimum filing requirements, which means the financial statements and exhibits required by the Commission's administrative rules to determine the rate base were provided. Aquanet also complied with ARM 38.5.112, which requires the filing utility to "provide a witness to testify

that the cost statements, working papers, and other supporting data ... which purport to reflect the books of the public utility do, in fact, set forth the results shown by such books." Barrows' prefiled testimony included an exhibit that presented Aquanet's rate base computation of $206,952 for the test period. (Ex. Aquanet-1, Exhibit SB-1, p. 1) In her later rebuttal testimony, adjustments and concessions made by Barrows resulted in a revised rate base computation of $206,062. (Ex. Aquanet-2, Exhibit No. SB-1, p. 1) The components of Aquanet's proposed rate base are the pump house facilities, the pump house structure, the land on which the wells and pump house are located, and the land-related landscaping and fencing. (Ex. Aquanet-1, Work Paper 1 – Plant Detail) Aquanet proposed to amortize the pump house over 39 years, longer than the normal 20-25 year period of other utilities. (Ex. Aquanet-1, Work Paper 1 – Plant Detail; First Hearing Tr., p. 56) Aquanet did not include in its rate base computation its main and distribution lines. (Second Hearing Tr., pp. 43, 48, and 51)

28. The MCC, the sole intervenor in the docket, did not contest the existence of a rate base or argue in any way that some or all of Aquanet's rate base costs had been recovered in lot sales. Cross-examination by individual commissioners at both hearings made clear that commissioners were concerned about this issue. However, when given the opportunity to raise it as an issue or agree with commissioners that it was an issue, Schulz did not do so. (First Hearing Tr., p. 84 and pp. 86-87)

29. Barrows testified repeatedly that she had no first-hand knowledge of the utility's development costs. (First Hearing Tr., pp. 54, 57; Second Hearing Tr., pp. 35-36, 40, 71, 84-85) Essentially, Aquanet's sole witness in the proceeding merely trusted in the representations of her clients, who are simultaneously the owners of Aquanet, the owners of Aquanet's lender, and the owners of the development company that built Aquanet. The web of affiliate transactions results in a high degree of opacity regarding the legitimacy of the book value and cost of capital of the utility. As just one example, an attempt by the Commission to obtain upstream cost of capital information was rebuffed on the basis that, while wearing his developer hat, the applicant was not subject to Commission jurisdiction. (Aquanet Late-Filed Exhibits, p. 1) Notwithstanding this legal sleight of hand, it is well established practice of public utility regulation that the upstream cost of capital is directly relevant to ensuring that a company is not double-leveraged, or employing high cost of capital figures for the purposes of establishing rates than it costs the upstream parent to fund its regulated-utility subsidiary. Similarly, Aquanet did not offer the

individual who is the developer, lender, and operator of the utility as a witness in this proceeding, and Barrows was unable to verify the accuracy of the utility's book value in the first instance, other than to attest it was the value recorded in the utility's books. The Commission contemplated in its deliberations the exclusion of any rate base value from rates, on the basis that the applicant did not meet its burden of proof. However, some degree of circumstantial evidence does exist to support a rate base. In particular, the fact that the books of the water utility date to 2001, while the draft sales agreement entered into the record as a late-filed exhibit dates from 2002, suggests that the developer did intend to recover the cost of the water-utility infrastructure through rates. (Aquanet Late-Filed Exhibits, Exhibit 3-1 to 3-9)

30. In its testimony on rate base, the MCC used Aquanet's rate base computation as a starting point and then proposed adjustments to it to arrive at a proposed rate base value of $186,441. (Ex. MCC-1, pp. 3-11; Exhibit PRS-1) The evidence in the record supports MCC's approach.

31. The Commission approves as reasonable MCC's proposed 7% overall rate of return based on Aquanet's actual capital structure of 0% equity and 100% debt. (*Id*., p. 11) Schulz observed that 7% reflects the utility's actual cost of its financing from RLD, which is owned by the owners of Aquanet. (First Hearing Tr., p. 80) The Commission is persuaded by Schulz's argument that the use of the hypothetical capital structure proposed by Aquanet would benefit the utility at ratepayer expense for equity that it does not possess. (Ex. MCC-1, pp. 11-12) As Schulz testified, "This was a 100% debt financed operation from the very beginning. There never appears – again based on the financial records – to be any intent to use equity to finance the water utility." (First Hearing Tr., pp. 83-84) This resolution also alleviates concern about double leverage, although it does not solve entirely the lack of evidence substantiating the cost of capital of Aquanet's affiliate lender.

<u>Accounting Expense</u>

32. The Commission accepts MCC recommended reduction of $14,710 to Aquanet's proposed accounting expense of $21,740. The Commission agrees with Schulz's opinion that Aquanet's proposed rates seemed excessive given duties described and, especially, the fact that the accounting services are provided by Wells Built Homes, which is owned by the same persons who own Aquanet. (Ex. MCC-1, p. 3) As Schulz testified, "These are affiliate transactions and the hourly rates for accounting services are not rates established through arms' length negotiations." (*Id*.)

33. The Commission agrees with MCC that Aquanet's proposal to use as a proxy an hourly rate testified to by a single expert witness in another Commission docket is not appropriate because it is unknown if that witness's rate is comparable to accountants' rates in Billings and his rate as a CPA in a private firm includes supporting items other than his hours. (MCC Br., p. 3) Schulz use of the BLS local market wage data to derive his proposed hourly rates for accounting services was reasonable.

34. The Commission also accepts MCC's recommendation that these accounting expenses be amortized over three years, a recommendation that Aquanet accepted in its rebuttal testimony. (Ex. Aquanet-2, p. 6)

Pump House Adjustments

35. The MCC recommended downward adjustments to several line items related to the pump house. First, regarding the pump house building itself, Aquanet valued it at $6,362. (Response to DR MCC-007) The value includes only the cost of materials to construct it, not the labor because the owners did not realize those labor costs could be recovered in rates. (Ex. Aquanet-2, p. 9) Schulz proposed removing 66.14% of the value of the pump house because that is the percentage of the square footage taken up by the workshop area that is sometimes used for non-utility purposes. (Ex. MCC-1, PRS-8) Both parties agree the workshop area of the pump house is sometimes used for non-utility purposes. (*Id*., PRS-7 Ln. 6-9; Ex. Aquanet-2, pp. 8-9) Barrows estimated that Aquanet uses the workshop area for non-utility purposes a maximum of 25 days per year and testified as well that water testing, which may or may not involve use of the workshop area, is conducted at least 5 days per week. (*Id*., p. 9; Second Hearing Tr., p.24) MCC pointed out that Barrows was unable to answer the question of how many days a year the workshop is not used at all. (MCC Br., p. 3)

36. The Commission agrees with MCC that a portion of the pump house structure must be allocated to non-utility plant. The record evidence does not substantiate that the workshop area of the pump house is used and useful for utility purposes or, if it is, how often is used for non-utility purposes or not used at all. Therefore, the Commission finds reasonable MCC's adjustment of the value of the pump house by 66.14%, which represents the square footage percentage of the workshop area.

37. The Commission also finds reasonable MCC's 75% reduction of the value of the land on which the pump house is located. The Commission agrees with Schulz's justification of the 75%

non-utility allocation on the basis that only the portions of the utility's assets that benefit the utility should be reflected in rate base and the workshop where non-utility activities take place, such as vehicle maintenance, occupies part of the lot. (Ex. MCC-1, p. 8) In addition, and consistent with reasoning behind the land value adjustment, the Commission accepts the related adjustments to rate base and operating and maintenance expenses proposed by MCC, with the few exceptions set out below.

<u>System Operator Expense</u>

38. Aquanet accepted MCC's reduction to system operator expense, which resulted in $12,536 for this line item. (Ex. Aquanet-2, p. 3) The Commission makes two further adjustments to this expense. First, when calculating this amount based on a three-year (2008-2010) average, Schulz neglected to remove from the 2009 expense of $15,450, the $3,825 fine levied on Aquanet in 2009 by the Department of Environmental Quality (DEQ) for non-timely filing of water tests. The 2009 operator expense less the fine is $11,625. Second, the Commission adds in the $300 adjustment identified by Aquanet to reflect an increase of $25 per month charged by the system operator. (Ex. Aquanet-1, Schedule 38.5.157 Working Papers) The Commission adopts the resulting $11,925 as the system operator expense. The Commission disagrees with MCC's use of a three-year average of the labor expense. Labor expenses are incurred each year and, unless there is a compelling reason to average the expense, should not be averaged, but based on the year incurred.

<u>Utility Expense</u>

39. MCC allocated 10% of the $6,521 utility expense to the workshop area as non-utility. (Ex. MCC-1, Worksheet PRS-2) In rebuttal, Aquanet argued that the few power outlets in the workshop area that are used occasionally do not represent 10% of the electricity usage of the pump house, which pumps 29 million gallons of water per year. (Ex. Aquanet-2, p. 8, fn 5) The Commission finds that MCC's allocation of 10% of the electrical costs to the non-utility use of the workshop area is an excessive amount because the electricity usage and costs of a running a pump will far exceed the usage and cost of a few outlets and lights that are used at times for non-utility purposes. The Commission finds that a 1% allocation is more realistic and reasonable than the 10% proposed by MCC.

Rate Case Expense

40. Aquanet's estimate of rate case expense for this case is $31,193. (Ex. Aquanet-2, p. 2) MCC did not contest this expense in its post-hearing brief. (MCC Br., p. 1) The parties agreed that rate case expense should be amortized over three years; however, the Commission disagrees and instead adopts a five-year amortization period. At hearing, Barrows testified that a five-year amortization period for rate case expense would be unfair because it would be "asking the utility to pay a bill and not recover it for five years." (Second Hearing Tr., p. 89) Schulz based his recommended three-year amortization period on his opinion that the amortization period should match the utility's typical interval between rate cases. (Ex. MCC-1, p. 5) MCC's response to data request AQN-001 provided information that indicated the average period between rate cases for small water utilities in recent years is about five years, but Schulz used three years because he believed Aquanet, which has no rate case history since this is its initial filing, may file another case sooner rather than later. The Commission finds persuasive Schulz's argument that the amortization period should match the interval between rate cases. In this case, evidence in the record that five years is the typical interval between rate cases for small water utilities supports the Commission's determination that rate case expense of $31,193 should be amortized over five years.

Results of Commission decisions

41. The table below shows the ratemaking results of the Commission's decisions in this case. For comparison purposes, Aquanet's initial proposal and MCC's proposal are shown as well.

	Aquanet (initial)	MCC	**PSC**
Utility Plant	$265,036	$265,036	$265,036
75% adj. to Land		(9,126.26)	(9,126)
75% adj. to Landscape and Fence		(11,238.38)	(11,238)
66.14% adj. to Pump House		(4,207.77)	(4,204)
Non-utility Use Adjustment ($57.08 * 39 Years)			
Total Utility Plant	$265,036	$240,463.59	240,464
Working Cash	7,340.79	4,331.10	4,816
Subtotal	$272,376.79	$244,794.69	$245,282
Less:			
Accumulated Depreciation	65,424.69	58,353.27	58,353
Net Rate Base	$206,952.10	$186,441.42	**186,929**

42. Return on rate base -The return on rate base is calculated by multiplying the weighted cost of capital by the net rate base. Given the Commission-authorized rate base and weighted cost of capital, the following table illustrates the Commission-authorized return:

	Structure	**Weighted Cost**
Equity	0.00%	0.00%
Debt	100.00%	7.00%
Overall ROR		7.00%
Rate Base		$186,929
Return on Rate Base		**$13,085**

43. Operation and Maintenance Expenses as authorized herein by the Commission are shown in the below table, alongside Aquanet's initial proposal and MCC's proposal.

	Aquanet	MCC	**PSC**
System Operator	15,750	12,836	11,925
Fees	7	810	810
Accounting	20,540	7,030	7,030
Utilities	6,521	5,926	6,462
Plant Upkeep	1,300	1,300	1,300
Repairs and Maintenance	945	5,425	5,425
Insurance	4,440	4,440	4,440
Professional Expenses	8,000	5,333	6,239
Postage	83	83	83
	57,586	43,183	**$43,714**

44. Aquanet's income statement and the rate impacts that result from this Order are depicted below, alongside Aquanet's initial proposal and MCC's proposal.

	Aquanet	MCC	**PSC**
Operating Income	$91,786	$66,648	$67,217
Other Income			
Total Revenue Requirement	$91,786	$66,648	**$67,217**
O&M Expenses	$57,585	$43,183	$43,714
Depreciation & Amort.	$9,191	$8,334	$8,334
Taxes Other Than Income	$2,425	$2,081	$2,084
Income Before Taxes	$22,585	$13,051	$13,085
Income Taxes	$4,684	(0)	(0)
Net Operating Income	$17,901	$13,051	$13,085
Rate Base	$206,952	$186,441	$186,929
Return on Rate Base	8.65%	7.000%	7.00%
Operating Revenue Increase	$43,711	$18,573	**$19,142**
	90.92%	38.63%	39.82%

Refund Due	$ 11,978.75
Amortized over 15 months	$ 798.58
Per customer (80 customers)	$ 9.98
Rate Exclusive of Refund	$ 70.02
Rate Effective 12/1/2012	$ 60.04
Rate Effective 03/01/2014	$ 70.02

45. The Commission authorizes an annual revenue requirement for Aquanet of $67,217. The authorized monthly charge based on 80 customers is $70.02 per customer per month. However, a refund is due to Aquanet's customers because the interim rates authorized by the Commission in Interim Order No. 7056c were higher than the rates authorized by this Order. The amount of the overcollection since the interim rates were implemented on September 1, 2011 to December 1, 2012, when the final rates will be implemented is $11,978.75. Aquanet must refund the overcollection amount to customers over a 15-month period starting December 1, 2012. During the refund period, the monthly rate will be $60.04.

46. Aquanet is authorized to continue on a final basis the miscellaneous charges that were previously approved by the Commission in Interim Order No. 7056c, Ordering ¶ 2.

Conclusions of Law

1. The Montana Public Service Commission regulates public utilities pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA). § 69-3-102, MCA.

2. Aquanet is a public utility furnishing water service to customers in the Billings, Montana, area. As such, it is subject to the supervision, regulation and control of the Commission pursuant to Title 69, MCA.

3. The Commission has provided adequate public notice and opportunity to be heard as required by§ 69-3-303, MCA and Title 2, Chapter 4, MCA.

4. The Commission's regulation of Aquanet principally involves the rates charged for services and the quality of service provided. See, e.g., §69-3-201, MCA (utilities shall provide reasonably adequate service at just and reasonable rates). The rates and charges approved in this Final Order are just and reasonable.

Order

1. Aquanet is granted authority to implement Commission-authorized initial rates for its Billings, Montana, customers as directed and discussed herein.

2. Aquanet is granted authority to implement on a final basis the other miscellaneous fees and charges as set forth in Interim Order No. 7056c, Ordering ¶ 2.

3. Aquanet is ordered to file with the Commission compliance tariffs within 20 days of this Order.

4. This Order is effective for services occurring on and after December 1, 2012.

Done this 25th day of October 2012 by a vote of 4 to 1.