

1 DEPARTMENT OF PUBLIC SERVICE REGULATION
2 BEFORE THE PUBLIC SERVICE COMMISSION
3 OF THE STATE OF MONTANA

IN THE MATTER OF THE PETITION OF JAMES T. AND)
ELIZABETH A. GRUBA; LEO G. AND JEANNE R. BARSANTI ON)
BEHALF OF THEMSELVES & OTHERS SIMILARLY SITUATED,) REGULATORY DIVISION
Complainants.)
VS.)
NORTHWESTERN ENERGY,) DOCKET NO. D2010.2.14
Defendant.)

4 _____
5 PRE-FILED WRITTEN DIRECT TESTIMONY OF COMPLAINANTS' WITNESS, BRUCE SIMON

6 ~~Filed March 21, 2014~~

7 INTERLINEATED ON MARCH 27, 2014

8 **Q. Please raise your right hand. Do you solemnly swear or affirm that the written**
9 **testimony below and any written or oral testimony or responses to data requests following it**
10 **will be the truth the whole truth and nothing but the truth, so help you God?**

11 A. I do.

12 ~~Attorney. You will be under oath during this entire proceeding.~~

13 ~~[Proof of Complaint ¶¶ D, E, H(b) & H(c) & K]~~

14 **Q. Please state your name, home and email addresses and phone number?**

15 A. I am Bruce Simon. I live and work at 217 Clark Ave, Billings, Montana. My email
16 address is bruce@brucesimon.org . My phone number is (406) 245-4237.

17 **Q. Please tell us about your background and occupation?**

18 A. I'm a partner at Cole Properties, a real estate management firm with properties in
19 Billings, MT. I served for 14 years in the Montana legislature, six of those as the chair of the

1 House Business and Labor Committee. That committee heard bills relating to public utilities. I
2 also have been on the Billings Parking Advisory Board and the Traffic Advisory Committee.

3 **Q. Have you supported this case in testimony before the Billings City Council?**

4 A. Yes, at its October 28th 2013, meeting I said, "The City Council needs to get on board
5 with the petitioners in this case." That night the Council voted to send a letter in support of the
6 petitioners.

7 **Q. ~~You were the person who alerted me to NorthWestern's street lighting~~**
8 **~~overcharges.~~ Please say again what you told the Billings City Council about how you became**
9 **familiar with street lights in Billings?**

10 A. About 10 years ago I saw my lighting tax for SILMD # 97 on my property tax
11 statement and thought it was an awful lot of money for street lights. I then inquired with the
12 city and got a copy of the bill on which the property taxes were based for the month of
13 October. I was shocked when I got the bill because I had no idea it would be that high. The bill
14 was for about \$11,000.00 dollars and about \$7,000.00 of the bill was for the ownership charge.

15 After doing some additional research I discovered that the street lights had been
16 installed with underground wiring in 1960 at a cost of about \$218,200. They had been modified
17 once since 1960. That resulted from a November 13, 1989, contract modification when the
18 lights were upgraded from 1000 watt mercury vapor lights to 400 watt high pressure sodium
19 lights. The total cost of the original lights and the modification came to less than \$300,000.
20 When I did my research ten years ago the ownership charge for that year was over \$85,000.

21 **Q. I'm showing you what has been marked a Complainants' Exhibit 20. Do you**
22 **recognize that exhibit?**

1 A. Yes. It is two resolutions that were being proposed for the City of Billings to own the
2 street lights. Resolution No. 9252 references SILMD 94. It was what the district was called
3 before it became SILMD 97. Resolution 9297 references SILMD 97 when Montana Power took
4 over ownership of the lights in the project. We can tell from the legal description that the two
5 districts are the same. I have kept a copy of these resolutions as part of my business records.

6 ~~ATTORNEY MOTION: We move admission of Complainants' Exhibit 20.~~

7 **Q. What does Resolution 9252, page 2, in the third line of Section 5 of Complainants'**
8 **Exhibit 20, Part 1 say would be the cost of the street lights in the SILMD that would become**
9 **SILMD 97?**

10 A. \$218,200.

11 **Q. You mentioned SILMD # 97. Do you own property there?**

12 A. Yes.

13 **Q. I'm showing you what has been marked a Complainants' Exhibit 21. Do you**
14 **recognize that exhibit?**

15 A. Yes. It contains a copy of a March 22, 1989 letter from Montana Power's Billings
16 Division Manager, Glenn Wheeler and Billings City Administrator Alan Tandy; a March 15, 1989,
17 memo from Billings Traffic Manager Terry Smith; a March 23, 1989 memo from Ken Haag,
18 Billings Director of Public Works. I have kept a copy of these resolutions as part of my business
19 records; and a November 3, 1989 memo from Ken Haag.

20 ~~ATTORNEY MOTION: We move admission of Complainants' Exhibit 21.~~

21 **Q. Please tell us why these documents are relevant here?**

1 A. The March 22 letter from Glenn Wheeler says in the third paragraph “The rate for
2 street lights is determined by the amount of investment to install the lights, the power used
3 and operation and maintenance costs.” He goes on to say the difference in rates for overhead
4 and underground wiring is “due entirely to the average cost of the investment to install these
5 two types of systems.” The letter does not mention “rent” as a cost component. It is Montana
6 Power’s admission that most system costs are “essentially the same” for overhead and
7 underground wiring except for the infrastructure costs. Wheeler goes on to explain that
8 damage to underground wiring caused by City contractors “is billable,” a clarification/admission
9 that the street light rate does not cover such costs.

10 The March 15, 1989 and March 23, 1989 memos show that the City was asked to front a
11 \$70,000 cost for conversion to HPS lights. The November 3, 1989, memo indicates the
12 Conversion will be complete by December 1, 1989. Presumably, that is the date the bill for the
13 new lights would have begun.

14 **Q. I’m showing you Complainants’ Exhibit 19. Do you recognize that exhibit?**

15 A. Yes, it is a four page document containing a letter I received in November 24, 2003,
16 from Robert Keefe who was Finance Director with the city of Billings. It contains a copy of two
17 pages from the September 29, 2003, bill NorthWestern sent to Billings for street lighting service
18 in SILMD 97. It also contains a sheet with the total expenditures paid for SILMD 97 for 1993
19 through 2003. I have kept a copy of this resolution as part of my business records.

20 ~~**ATTORNEY MOTION: We move admission of Complainants’ Exhibit 19.**~~

21 **Q. What does Complainants’ Exhibit 19, page 4 indicate the total expenditures for**
22 **SILMD 97 were for years 1993 through 2003?**

1 A. \$1,333,138.

2 **Q. Looking at Complainant's Exhibit 19, page 3, please tell us what the total bill was**
3 **for that 2003 month; what the total ownership charge was for that 2003 month; and what**
4 **percentage of the bill the ownership charge was of the total bill?**

5 A. The total bill was \$11,418.08. The combined ownership charges were \$7,081.88
6 (\$7,050.68 + \$31.20). The ownership charges made up 62% of the total bill.
7 ($\$7,081.88 / \$11,418.08$)

8 **Q. If you multiply 62% by the total expenditures for SILMD 97 from 1993 through**
9 **2003, what result do you get?**

10 A. \$826,545 ($0.62 * \$1,333,138$). That would be the approximate amount of the total
11 cost of SILMD street lighting allocated to the ownership charge from the start of 1993 to the
12 end of 2003. As I've stated, I thought the original cost of the lights in 1960 was about \$218,000
13 and the cost of loan to change to High Pressure Sodium lighting was \$70,000. So if the original
14 cost of the retrofit was \$70,000, the ownership charge we paid between 1993 and 2003 would
15 have covered that many times over. The \$826,545 ownership charge we paid from the
16 beginning of 1993 through 2003 also would have covered the original \$300,000 cost of the
17 SILMD 97 lights. Some of that \$218,000 cost should have been amortized by what we paid for
18 the lights before 1993, so the cost to be defrayed starting after the change should have been
19 less than \$300,000.

20 You also should note that these numbers did not take into account an allowed rate of
21 return on the utility's original investment. So when that is taken into account, the amount of

1 time necessary to cover the original cost would have to be increased a bit. Nevertheless, the
2 numbers indicate we've paid for the lights several times over.

3 ~~ATTORNEY MOTION: We ask the Commission to take administrative notice of~~
4 ~~Complainants' Exhibit 18. It is a copy of NorthWestern Energy's December 2013 bill to the City~~
5 ~~of Billings for SILMD # 97. It verifies a total ownership charge of \$7,371.96 for December~~
6 ~~2013. Multiplying that by 12 would give us \$88,463.52 ownership charge for the year and a~~
7 ~~total cost of \$152,943.~~

8 Q. I'm showing you Complainants' Exhibit 3. If you look at line 1 for SILMD 97, can you
9 see from Column J how many street lights owned by NorthWestern Energy were in Billings
10 SILMD 97 in 2009?

11 A. It says 338 in 2009. Those must be the 400 watt lamps. There are also 12, 100 watt
12 fixtures in SILMD 97 that we paid for. Those two total 350 lights owned by NorthWestern in
13 2009. Complainants' Exhibit 19, page 3 shows 349 total utility owned street lights in 2003.
14 However, those 2003 and 2009 numbers are not correct today because there are fewer lights
15 now. Some of those have been taken out at intersections. You can see from Complainants'
16 Exhibit 18 that we now pay for 315 lights (318 total lights in SILMD 97 minus three of those
17 owned by the city). One can tell three lights are owned by the city because the city is billed a 75
18 cent billing charge at 25 cents a luminaire for lights the city owns.

19 So while SILMD 97 property owners are paying more (\$7,371.96) in ownership charges
20 now than they were in 2003 (\$7,081.88), there are 35 fewer lights now than in 2009. The
21 charge to amortize lights should not increase when the number of lights amortized goes down.

1 ~~Q. You told the City Council that you thought by now the total annual cost of those~~
2 ~~lights was well over \$100,000.~~ Please look at Complainants' Exhibit 3, line 1, Column G and
3 tell us what the cost of the street light service was in downtown Billings SILMD 97 in June of
4 2009?

5 A. It says \$147,797.

6 ~~Q. So your estimate that the total cost would be over \$100,000 is not in conflict with~~
7 ~~the Complainant's Exhibit 3, \$147,797 calculation for 2009 or the \$152,943 total cost in 2013.~~
8 Please look at Complainants' Exhibit 3, Column C, line 1. How many years does Exhibit 3 say
9 will have passed by September 8, 2014, since the original cost of the lights in SILMD 97 was
10 completely amortized?

11 A. Slightly more than 10 years of ownership overcharge. I believe that number is low. As
12 I have testified, I thought that before 2003 the cost of SILMD 97 street lights was totally
13 covered by what we had paid in ownership charges.

14 ~~Q. You recalled to the City Council that the ownership portion of the bill for SILMD 97~~
15 ~~lights was about \$7,000 a month.~~ Please look at Column D, line 1. How much did the monthly
16 ownership charge total for all the SILMD 97 street lights in June of 2009?

17 A. \$7,294 for the SILMD 97 400 watt lights. But that does not include the \$32.40
18 monthly ownership charge for 12 utility-owned SILMD 97 100 watt lights.

19 ~~Q. So your \$7,000/month number on that is very close to that \$7,294 shown on~~
20 ~~Complainants' Exhibit 3 and the \$7,371 shown on Complainants' Exhibit 18.~~ You said the
21 ownership charge for the year you looked at the bills was over \$85,000. Please multiply
22 \$7,294 by 12 months and tell us what you get.

1 A. \$87,528.

2 **Q. ~~So your \$85,000 recollection about what that yearly ownership charge was 10 years~~**
3 **~~ago also is consistent with the more recent \$87,528 ownership charge number on~~**
4 **~~Complainants' Exhibit 3 and the \$88,463 ownership charge calculated from Complainants'~~**
5 **~~Exhibit 18. Did you tell the previous PSC members about what you knew and ask them to do~~**
6 **something about NorthWestern's overcharges?**

7 A. Yes, I recall talking with Commissioners Molnar, Raney, and Jergeson about street
8 lighting overcharges, but they did not do anything. I believe this Commission will be different.

9 **Q. Please look at Complainants' Exhibit 3, Column D, line 1. What does that column**
10 **say about how much your fellow taxpayers and the City of Billings will have been**
11 **overcharged for street lights in SILMD 97 by September 8, 2014 (that is over the last 10+**
12 **years)?**

13 A. It's more than \$900,000. That number appears to be low. You have told me Exhibit 3
14 is based on the top end of a range of costs because you do not have the actual original costs. I
15 obtained the \$218,000 and \$70,000 cost numbers. I believe they show that the overcharge
16 exceeds the overcharge that you calculated. Those numbers show we paid for those lights
17 sooner than you show.

18 **Q. Based on the ownership charge range NorthWestern used when placing the 338**
19 **lights into the present tariff, NWE is claiming the original cost of the lights ranged from**
20 **\$540,800 to \$608,062 and that 12 of the lights were in the cost range from \$2400 to \$4,788.**
21 **NWE's ranges seem to exceed the \$70,000 to \$300,000 that you feel they cost. What do you**
22 **have to say about that?**

1 A. Even if you assume that the numbers I was provided were not correct and that the
2 cost was at the maximum of what it could have been assuming the utility placed the lights in
3 the correct category under the tariff, we still would have paid for that \$612,850 with the
4 \$826,545 I calculated earlier as 62% of the total cost of SILMD street lighting between 1993 and
5 2003. NorthWestern has the contracts with installers showing what it paid for the retrofit. It
6 should provide those contracts so we can test whether or not it placed the street lights in the
7 correct tariff category. Exhibit 20 shows what the original cost would have been before the
8 retrofit. What is the cost of the 350 light retrofit?

9 If one divides each end of the ownership charge range by 350 lights one gets costs
10 ranging from \$1,545 to \$1737 per retrofitted high pressure sodium light. That seems excessive
11 since much of the existing infrastructure was used in the retrofit.

12 On page 2 of Complainants' Exhibit 19 NorthWestern says if we have inquiries about the
13 electric bill to call its customer care center. Well let's have the answer to our query -- prove the
14 original cost of the high pressure sodium retrofit in SILMD 97.

15 **Q. Who pays the largest part of the street lighting bill in SILMD 97?**

16 As I testified before the Council and city staff last October, "The largest payer in light
17 district #97 is the City of Billings. So the city taxpayers were paying the biggest part of that bill."

18 **Q. How does the City of Billings charge for lights it owns?**

19 A. It amortizes the street light capital improvement over a 15 year period. When that
20 time is up the improvement is paid for and the tax drops out. Contrast that with how we have
21 been charged for more than 50 years for the lights NorthWestern owns. The SILMD 94

1 Resolution, Complainants' Exhibit 20, Part 1, Section 7 called for the infrastructure to be
2 amortized over and even shorter period -- eight years.

3 ~~Q. Did you try to get NorthWestern to allow you to use its poles to put in different~~
4 ~~light fixtures?~~

5 ~~A. Yes. They would not allow it. NorthWestern's customer service representative said if~~
6 ~~we were going to put in our own lights they would yank the poles out.~~

7 **Q. When you did your research what did you find about who was originally going to**
8 **own the SILMD 97 street lights?**

9 A. The city was going to own them in SILMD # 94, but there was a glitch in forming the
10 lighting district because notice was not given properly to the district members. By the time that
11 got fixed, NorthWestern said they would take it over and the lighting district that resulted was
12 SILMD # 97. There is no SILMD 94. Also, it used to be that cities would have to pay 25% of the
13 original cost of lights in a district up-front before the utility would put in street lights. That law
14 got changed so the city did not have to front-end any money to the utility. This incentivized the
15 city to allow the utility to put up the lights. It has become very lucrative for the utility because
16 we have paid much more for the lights than if the city had owned them as originally proposed.

17 **Q. How did you happen to notice the ownership charge?**

18 A. As I said, I thought my property tax for street lighting was high and got to looking into
19 it. The City gave me its bill for SILMD 97 and I saw the ownership charge listed on it. The reason
20 that detail showed up was because the deregulation bill required an itemization of the different
21 components of the bill. I never would have known that we had paid for those lights more than
22 once if it had not been for the break down in costs.

1 **Q. So what do you think about what bills should show?**

2 A. It is important to show a break down in the different cost components. I understand
3 that as part of your case, you have asked the Commission to require that the bills to the Cities
4 show the date when the (ownership charge) component that pays for the infrastructure cost
5 has completely paid for the original cost of the lights in a SILMD plus a reasonable rate of
6 return.

7 **Q. Does that seem reasonable to you?**

8 A. It is both reasonable and essential. Getting access to detailed information is how
9 customers will know that utilities are or are not gouging them. As I said I would never have
10 known about this overcharge unless the cost of the service had been broken down to show the
11 ownership charge. We still don't know how much of the \$218,000, 1960 cost was paid for by
12 1989 or whether the \$70,000 loan covered the entire cost of the retrofit. But we do know that
13 the \$1,545 to \$1737 per light cost of the HPS replacements is suspect.

14 **Q. Is there a difference in the detail shown on the 2003 bill on pages 2 and 3 of**
15 **Complainants' Exhibit 19 and the detail shown on the 2013 bill that is Complainants' Exhibit**
16 **18?**

17 A. Yes the 2003 bill is more detailed than the 2013 bill. Why did NorthWestern eliminate
18 some of the detail?

19 Also, NorthWestern's computer programmers could at least break out and consolidate
20 the portion of the bill that is to be charged to the property owners in SILMD 97 and the portion
21 that is to be charged to the City general or other fund. As it is, city employees must try to figure
22 it out on every monthly bill where both the city and utility own lights in a SILMD.

1 **Q. You said you wanted the PSC to know about how NorthWestern maintains the**
2 **street lights in SILMD 97. What did you want the Commissioners to know?**

3 A. NorthWestern does not do a very good job of keeping the street lights on. I noticed
4 many lights between 28th and 30th on 3rd Avenue have been out for many days. I reported the
5 outage and was told by Deb Singer to talk to the Superintendent of Operations. He said that
6 they could not be fixed until the ground thawed in the spring. I also noticed some lights that
7 were out near the Courthouse until overhead wiring was installed to serve them. The
8 underground wiring was not inserted in conduit, so there are problems with it now. I was told
9 that after NorthWestern fixed the lights that are out in the spring, that the city would be
10 credited for the lights that are out.

11 Before they spend a lot of money fixing the problematic underground wiring, it might be
12 a good idea to see if the newer off-grid and on-grid technology of solar powered LED street
13 lights would be cost effective. There is a mile stretch of Highway 431 in Boaz, Alabama, where
14 36 solar LEDs have been installed. They expect to use 20% less electricity than they will
15 produce. See [http://www.gadsdentimes.com/article/20120911/NEWS/120919966/-](http://www.gadsdentimes.com/article/20120911/NEWS/120919966/-1/OPINION01?Title=OUR-VIEW-Going-green-in-Boaz)
16 [1/OPINION01?Title=OUR-VIEW-Going-green-in-Boaz](http://www.gadsdentimes.com/article/20120911/NEWS/120919966/-1/OPINION01?Title=OUR-VIEW-Going-green-in-Boaz). Carroll College has one of these in the St.
17 Charles dirt lot at Learning Ave. and Hunthausen Way, as do many other cities. See
18 <http://www.inovussolar.com/proof/> and [http://carmanah.com/outdoor-](http://carmanah.com/outdoor-lighting/applications/street-lighting)
19 [lighting/applications/street-lighting](http://carmanah.com/outdoor-lighting/applications/street-lighting) and [http://carmanah.com/company/news-and-](http://carmanah.com/company/news-and-updates/news-release/city-los-angeles-highlights-carmanah-solar-powered-lighting)
20 [updates/news-release/city-los-angeles-highlights-carmanah-solar-powered-lighting](http://carmanah.com/company/news-and-updates/news-release/city-los-angeles-highlights-carmanah-solar-powered-lighting)

21 **Q. What would you like the PSC to do to remedy the abuses you have just testified to?**

22 A. I would like:

1 ~~1) an immediate order preventing, unless the customers in an SILMD authorized it,~~
2 ~~Northwestern Energy from destroying, moving or otherwise rendering inoperative existing light~~
3 ~~poles, lighting pole arms, pole bases, wiring, meters or other equipment needed to distribute~~
4 ~~electricity to customer-owned luminaires or other equipment being served under the ELDS-1~~
5 ~~tariff;~~

6 ~~2) an immediate order requiring NorthWestern to allow cities to use their poles to~~
7 ~~support customer-owned street or area lights; and~~

8 3) the PSC to order that the ownership overcharge be stopped and that past
9 overcharges be recouped and applied to the cost of energy-efficient, easier-to-maintain lights
10 with the remainder of the overcharge being rebated to taxpayers in SILMDs where an
11 overcharged exists.

12 4) a PSC order requiring NorthWestern to include in its bills to all ELDS-1 customers:

- 13 a) The date when the ownership charge shall have fully paid for the facilities it is being
- 14 applied to;
- 15 b) The date when the ownership charge shall cease;
- 16 c) The per lighting unit original cost of any new LED or other installation that an ownership
- 17 charge is being applied to;
- 18 d) the average per unit (street light) original cost of all facilities involved in calculating the
- 19 ownership charge,
- 20 e) the name of each item involved in the ownership charge calculation, and
- 21 f) an itemized list of all costs involved in determining the ownership charge.

22
23 **Q. Mr. Simon, I am grateful for your alerting me to the injustice of NorthWestern's**
24 **ownership charge and your diligence on behalf of the City of Billings to rectify this wrong.**

25 A. And I appreciate the work this Commission is doing to address these concerns.

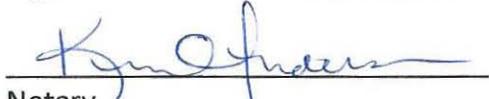
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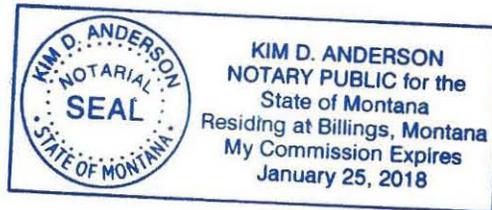
1
2 I, Bruce Simon, do hereby certify that these 14 pages of typewritten material are a full,
3 correct, and truthful rendition of my pre-filed written testimony given under oath.

4 
5 Bruce Simon

6
7 State of Montana
8 County of Yellowstone

9 Signed and sworn to before me on March 17, 2014 by Bruce Simon.

10 
11 Notary



Later voided & replaced
by 9297

RESOLUTION NO. 9252

A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 94, OF THE CITY OF BILLINGS, MONTANA, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE THEREIN, AN APPROXIMATE ESTIMATE OF THE COST THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING THE LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY AND THE METHOD OF ASSESSMENT OF SAID COSTS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

SECTION 1. That the public interest and convenience require the creation of a Special Improvement Lighting District as hereinafter more particularly described and the intention of said City Council to create such district is hereby declared.

Beginning at a point which is the intersection of the centerlines of 3rd Ave. North and North 30th Street proceed thence Northwesterly along the centerline of said North 30th Street to it's intersection with the North lot line of Lot 19, Block 46, Original Town of Billings, extended, thence Northeasterly along said North line of Lot 19, extended to it's intersection with the centerline of the alley between North 28th and North 29th Street, thence northwesterly along the centerline of said alley to it's intersection with the North Lot line of Lot 6, Block, 53, Foster's Addition extended, thence Northeasterly along the North Lot line of said Lot 6 to it's intersection with the centerline of the alley between North 25th Street and North 26th St., thence Southeasterly along the centerline of said alley to it's intersection with the North lot line of Lot 6, Block 90, Original Town, extended, thence Northeasterly along said North line of Lot 6, extended, to it's intersection with the centerline of the alley between North 24th Street and North 23rd Street, thence Southeasterly along the centerline of said alley to its intersection with the centerline of the alley between 1st Ave. North and Montana Ave., thence Southwesterly along the centerline of said alley to it's intersection with the East lot line of Lot 7, Block 110, Original Town, extended, thence Southeasterly along said East lot line of Lot 7, extended, to a point 91 feet South of the South property line of Montana Ave., thence southwesterly along a line 91 feet South of and parallel to the South property line of Montana Avenue to it's intersection with the West lot line of Lot 6, Block 107, Original Town, extended, thence Northwesterly along said West lot line of Lot 6, extended to it's intersection with the centerline of the alley between Montana Avenue and 1st Ave. thence Southwesterly along the centerline of said alley to it's intersection with the centerline of the alley, between North 30th Street and North 31st Street, thence Northwesterly along the centerline of said alley to it's intersection with the centerline of 3rd Avenue North, thence Northeasterly along the centerline of 3rd Ave. North to the point of beginning.

SECTION 2. Said Special Improvement Lighting District will contain and include all lots, blocks and parcels of land within the boundaries of said District as above defined.

SECTION 3. The lots, blocks and parcels of land contained within the boundaries of the district are more particularly described as follows:

Lots 19 thru 24, Block 106, Original Town
Lots 1 thru 12, Block 95, Original Town
Lots 1 thru 12, Block 55, Original Town
Lots 1 thru 6, Block 107, Original Town
Lots 12 thru 24, Block 107, Original Town
Lots 1 thru 24, Block 94, Original Town
Lots 1 thru 24, Block 56, Original Town
Lots 1 thru 6, Block 46, Original Town

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Lots 19 thru 24, Block 46, Original Town
Lots 1 thru 24, Block 108, Original Town
Lots 1 thru 24, Block 93, Original Town
Lots 1 thru 24, Block 57, Original Town
Lots 1 thru 12, Block 45, Original Town
Lots 13 thru 24, Block 45, Original Town
Lots 1 thru 24, Block 109, Original Town
Lots 1 thru 24, Block 92, Original Town
Lots 1 thru 24, Block 58, Original Town
Lots 1 thru 24, Block 44, Original Town
Lots 7 thru 24, Block 110, Original Town
Lots 1 thru 24, Block 91, Original Town
Lots 1 thru 24, Block 59, Original Town
Lots 1 thru 24, Block 43, Original Town
Lots 13 thru 24, Block 111, Original Town
Lots 1 thru 6, Block 90, Original Town
Lots 13 thru 24, Block 90, Original Town
Lots 1 thru 6, Block 89, Original Town
Lots 19 thru 24, Block 89, Original Town
Lots 13 thru 24, Block 112, Original Town
Lots 13-18, Block 113, Original Town
Lots 19 thru 24, Block 88, Original Town
Lots 5 thru 12, Block 55, Foster's Addition
All Block 56, Foster's Addition
Lots 1 thru 6, Block 53, Foster's Addition
Lots 1 thru 6, Block 52, Foster's Addition
Lots 19 thru 24, Block 52, Foster's Addition
Lots 19 thru 24, Block 58, Foster's Addition
Lots 19 thru 24, Block 9, Original Town
Lots 1 thru 6, Block 9, Original Town
Lots 19 thru 24, Block 10, Original Town
Lots 13 thru 24, Block 42 Original Town
Lots 13 thru 24, Block 60, Original Town

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and an unplatted area 91 feet in depth lying South of and bordering Montana Avenue bordered on the East by the East Lot line of Lot 7, Block 110, Original Town extended and on the West by the East line of Lot 7, Block 107, Original Town extended with a net area of 81,900 sq. ft.

SECTION 4. That the general character of the improvement to be made in said Special Improvement Lighting District is as follows:

Installing new ornamental street lights of the mercury vapor type.

SECTION 5. That an approximate estimate of the cost of installing said lighting posts and appurtenances in said Special Improvement Lighting District is \$218,200.00, and an approximate estimate of the cost of maintaining the lights and supplying electrical current therefore for the first year is \$30,625.00. The estimated cost to the property owners of installing said lighting posts is \$308.30, for 25 x 140 foot lots and the estimated cost to the property owner of maintaining said lights for the first year is \$43.30. Estimated cost to the City for maintenance is \$7,656.00 per year.

SECTION 6. That 3/4 of the entire cost and expense of furnishing, installing and equipping said lighting posts together with the necessary connections and appurtenances, and 3/4 of the entire cost of maintaining said lights and supplying electrical current therefore for the first year in said district shall be paid by the owners of the property abutting the

streets and avenues to be lighted within said district; each lot or parcel of land within said District to be assessed for that portion of the whole cost which its area bears to the area of the entire District, exclusive of streets, avenues, alleys and public places: the other 1/4 of the entire cost and expense of furnishing, installing and equipping said posts, together with the necessary connections and appurtenances, and the other 1/4 of the entire cost of maintaining said lights and supplying electrical current therefor in said District for the first year shall be paid by the City of Billings, out of the General Fund or other fund provided for that purpose. The Council declares and finds the entire district to be benefitted by said ornamental lights and shall be assessed accordingly to pay the costs and expense thereof.

COMPLAINANTS
EXHIBIT 20
PART 1, PAGE 3
OF 5

SECTION 7. That the entire cost and expense of furnishing, installing and equipping said lighting posts together with the necessary connection and appurtenances shall be paid in eight (8) annual installments, and the payment of said annual installments shall be extended over a period of eight (8) years from and after the completion of the installation of such lighting fixtures and appurtenances in said District.

That a fund shall be established to be known as "Special Improvement Lighting District No. 94 Fund", and that all monies derived or received from such assessments shall constitute such a Fund. To provide for the payment in the first instance of the cost and expense of furnishing, installing and equipping said lighting posts, together with the necessary connections and appurtenances, bonds shall be drawn on said Fund, and the holders or owners thereof shall reply exclusively for payment from said Fund.

SECTION 8. That the entire cost of maintaining said lights and furnishing electrical current therefor shall be paid by an annual assessment against the property in the said District and by the City of Billings in such proportions as are designated in a preceding section for the first year; and in such proportions as may be hereinafter designated by the City Council for the succeeding years. All monies, derived from the collection of such assessments and from the amount so paid by the City shall be paid into a fund to be known as "Special Improvement Lighting District No. _____ Maintenance Fund" and warrants shall be drawn on said Fund for the payment

of such cost of maintaining said lights and supplying electrical current therefor.

COMPLAINANTS
EXHIBIT 20
PART 1, PAGE 4
OF 5

SECTION 9. That on the 14 day of June, 1960, at 7:30 p.m., at the Council Chambers in the City Hall in said City, the City Council will hear and pass upon all protests made against the making of such improvement or the creation of such District, if any, which are made in writing and delivered to the City Clerk of the City of Billings, within fifteen (15) days from the 26 day of May, 1960, which will be the day upon which the publication of the notice of the passage of this Resolution of Intention will appear in the Billings Times, a weekly newspaper published and circulated in the City of Billings.

SECTION 10. That the City Clerk is hereby authorized and directed to send a copy of said notice of the passage of this Resolution of Intention to the owners or agents of owners of all the lots, blocks, or parcels of land included within the boundaries of said proposed Special Improvement Lighting District No. 94, by mail, postage prepaid, and directed to the address given in the most recent City T^Ax Books, upon the same day said notice is published, said notice to be as follows:

OFFICIAL NOTICE

NOTICE IS HEREBY GIVEN TO ALL PERSONS, FIRMS OR CORPORATIONS having property within proposed Special Improvement Lighting District No. 94, of the City of Billings, Montana, that the City Council will be in session on the 14 day of June, 1960, at 7:30 p.m., at the council chambers in the City Hall, and then and there will hear and pass upon all protests made in writing and filed with the City Clerk within fifteen (15) days from the date hereof, to the creation of Special Improvement Lighting District No. 94, the boundaries of which are specifically described in Resolution No. 9252, passed by the City Council and approved by the Mayor on the 24 day of May, 1960, and now on file in the office of the City Clerk of said City.

COMPLAINANTS
Exhibit 20
PART I, Page 5
of 5

The general character of improvements to be made in said Special Improvement Lighting District is as follows: the installation of new ornamental street lights of the mercury vapor type, to relight the Downtown District from approximately North 24th Street to North 30th Street, from Montana Avenue to approximately 4th Avenue North. The doing of all things found necessary and incidental to the aforesaid, all of which shall be in accordance with the plans and specifications of the City Engineer.

That an approximate estimate of the cost of installing said lighting posts and appurtenances in said Special Improvement Lighting District is \$218,200.00, and an approximate estimate of the cost of maintaining the lights and supplying electrical current therefore for the first year is \$30,625.00. The estimated cost to the property owners of installing said lighting posts is \$308.30, for 25 x 140' lots and the estimated cost to the property owner of maintaining said lights for the first year is \$43.30. Estimated cost to the City for maintenance is \$7,656.00 per year.

Cost and expense of said **improvements shall be paid in eight (8) annual installments.**

Dated at Billings, Montana, this 26 day of May, 1960.


Wm. G. Fry, Jr.
City Clerk

Passed by the City Council and approved by the Mayor this 24 day of May, 1960.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

Resolution No. 9297

A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 97, OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW ORNAMENTAL STREET LIGHTS OF THE MERCURY VAPOR TYPE, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFOR FOR THE FIRST YEAR, THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY AND THE METHOD OF ASSESSMENT OF SAID COSTS.

COMPLAINANTS'
EXHIBIT 20
PART 2, PAGE 1
OF 9

WHEREAS, the City Council of Billings, Montana, has been informed that notices of the passage of Resolution 9252, a Resolution of Intention to Create Special Improvement Lighting District No. 94, were not sent to all property owners within said district and that therefore the purported creation of Special Improvement Lighting District No. 94 was invalid;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Billings, Montana:

Section 1:

That the public interest and convenience require, and it is deemed necessary, to create a special improvement lighting district for the purpose of securing and providing energy and maintenance for new ornamental street lights of the mercury vapor type for lighting said District; and the intention of said City Council to create such a District, hereinafter more particularly described, is hereby declared.

Section 2:

That said Special Improvement Lighting District shall be known and designated as "Special Improvement Lighting District No. 97", and the boundaries of said Special Improvement Lighting District No. 97 are hereby declared to be as follows:

"Beginning at a point which is the intersection of the centerlines of 3rd Ave. North and North 30th Street proceed thence Northwesterly along the centerline of said North 30th Street to its intersection with the North lot line of Lot 19, Block 46, Original Town of Billings, extended, thence Northeasterly along said North line of Lot 19, extended to its intersection with the centerline of the alley between North 28th and North 29th Street, thence northwesterly along the centerline of said alley to its intersection with the North lot line of Lot 6, Block 53, Foster's Addition extended, thence Northeasterly along the North Lot line of said Lot 6 extended to its intersection with the centerline of the alley between North 25th Street and North 26th St., thence Southeasterly along the centerline of said alley to its intersection with the North lot line of Lot 6, Block 90, Original Town, extended, thence Northeasterly along said North line of Lot 6, extended, to its intersection with the centerline of the alley between North 24th Street and North 23rd Street, thence Southeasterly along the centerline of said alley to its intersection with the centerline of the alley between 1st Ave. North and Montana Ave., thence Southwesterly along the centerline of said alley to its intersection with the East lot line of Lot 7, Block 110, Original Town, extended, thence Southeasterly along said East lot line of Lot 7, extended, to a point 91 feet South of the South property line of Montana Ave., thence southwesterly along a line 91 feet South of and parallel to the South property line of Montana Avenue to its intersection with the West lot line of Lot 6, Block 107, Original Town, extended, thence Northwesterly along said West lot line of Lot 6, extended to its intersection with the centerline of the alley between Montana Avenue and 1st Ave. N., thence Southwesterly along the centerline of said alley to its intersection with the centerline of the alley, between North 30th Street and North 31st Street, thence Northwesterly along the centerline of said alley to its intersection with the centerline of 3rd Avenue North, thence Northeasterly along the centerline of 3rd Ave. North to the point of beginning."

COMPLAINANTS'
Exhibit 20
PART 2, PAGE 2
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Section 3:

That the City Council of Billings, Montana, hereby finds and determines that each of the lots, blocks, pieces and parcels of land situated within the boundaries of said District will be especially benefited and affected by said improvements and that all of the property included within said District, as hereinafter specifically described, is hereby declared to be the property to be assessed for the cost and expense of obtaining the electrical energy for and maintenance of said ornamental street lights of the mercury vapor type. The lots,

blocks, pieces and parcels of land contained within said District are more particularly described as follows:

COMPLAINANTS'
EXHIBIT 20
PART 2, PAGE 3
OF 9

"Lots 1 through 6, and 19 through 24	Block 9
Lots 19 through 24	Block 10
Lots 13 through 24	Block 42
Lots 1 through 12, 21 through 24	Block 43
Lots 1 through 24	Block 44
Lots 1 through 9, 19 through 24	Block 45
Lots 1 through 6, 19 through 24	Block 46
Lots 1 through 12	Block 55
Lots 1 through 24	Block 56
Lots 1 through 24	Block 57
Lots 1 through 24	Block 58
Lots 1 through 24	Block 59
Lots 13 through 24	Block 60
Lots 19 through 24	Block 88
Lots 1 through 6, 19 through 24	Block 89
Lots 1 through 6, 13 through 24	Block 90
Lots 1 through 24	Block 91
Lots 1 through 24	Block 92
Lots 1 through 24	Block 93
Lots 1 through 24	Block 94
Lots 1 through 12	Block 95
Lots 19 through 24	Block 106
Lots 1 through 6, 13 through 24	Block 107
Lots 1 through 24	Block 108
Lots 1 through 24	Block 109
Lots 7 through 24	Block 110
Lots 13 through 24	Block 111
Lots 13 through 24	Block 112
Lots 13 through 18	Block 113

All in Original Town.

Lots 1 through 6, 19 through 24	Block 52
Lots 1 through 6	Block 53
Lots 6 through 12	Block 55
Lots 5 through 24	Block 56
Lots 19 through 21	Block 58

All in Foster's Addition,

and that part of the North one-half of Section 3, Township 1 South, Range 26 East, which is bounded and described as follows:

Beginning at a point where the East lot line of Lot 7, Block 110, Original Town, extended, intersects the South line of Montana Avenue; thence in a Southeasterly direction along the extended east line of said Lot 7 a distance of 91 feet;

Thence in a Southwesterly direction, parallel with the South line of said Montana Avenue to an intersection with the West lot line of Lot 6, Block 107, Original Town, extended;

Thence Northwesterly along said West lot line of said lot 6, extended a distance of 91' to its intersection with the south line of Montana Avenue;

Thence in a Northeasterly direction along the South line of Montana Avenue to the point of beginning."

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Exhibit 20
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Section 4:

That the general character of the improvements to be made in said Special Improvement Lighting District is hereby declared to be as follows: Replacing the existing facilities along and upon portions of the streets and avenues within the boundaries of the District hereinbefore described, in the City of Billings, Montana, with new ornamental street lights of the mercury vapor type, consisting of 361 ornamental suspension type luminaires and mercury lamps, mounted on 33 foot steel poles to be served by underground cable, along and upon the hereinafter named streets and avenues within said District, with 16 such units per square block, spaced and located in accordance with the map of said proposed Lighting District on file in the office of the City Engineer of the City of Billings, Montana. The streets and avenues are:

- "(a) Along the east side of 30th Street North extending from a point halfway between 4th Avenue North and 3rd Avenue North to Third Avenue North, and along both sides of 30th Street North extending from Third Avenue North to the alley between First Avenue North and Montana Avenue;
- (b) Along both sides of 29th Street North extending from a point halfway between 4th Avenue North and 3rd Avenue North to a point approximately 91 feet south of Montana Avenue;
- (c) Along both sides of North Broadway (or 28th Street North) extending from a point approximately 150 feet north of 4th Avenue North to a point approximately 91 feet south of Montana Avenue;
- (d) Along both sides of 27th Street North extending from a point approximately 150 feet north of 4th Avenue North to a point approximately 91 feet south of Montana Avenue;

COMPLAINANTS'
Exhibit 20
PART 2, PAGE 5
069

- (e) Along both sides of 26th Street North extending from a point approximately 150 feet north of 4th Avenue North to the alley between First Avenue North and Montana Avenue;
- (f) Along both sides of 25th Street North extending from a point halfway between Second Avenue North and First Avenue North to the alley between First Avenue North and Montana Avenue;
- (g) Along both sides of 24th Street North extending from a point halfway between Second Avenue North and First Avenue North to the alley between First Avenue North and Montana Avenue;
- (h) Along both sides of 4th Avenue North extending from the alley between 29th Street North and 28th Street North to the alley between 26th Street North and 25th Street North;
- (i) Along the south side of Third Avenue North extending from the alley between 31st Street North and 30th Street North to 30th Street North, and along both sides of Third Avenue North from 30th Street North to the alley between 26th Street North and 25th Street North;
- (j) Along both sides of Second Avenue North extending from the alley between 31st Street North and 30th Street North to the alley between 26th Street North and 25th Street North;
- (k) Along both sides of 1st Avenue North extending from the alley between 31st Street North and 30th Street North to the alley between 24th Street North and 23rd Street North;
- (l) Along both sides of Montana Avenue extending from a point halfway between 30th Street North and 29th Street North to a point halfway between 27th Street North and 26th Street North."

Section 5:

That the City of Billings intends to establish the approximate rates for supplying electrical energy and maintenance as follows:

- (a) The rate of \$60.48 per year for electrical energy for each unit.
- (b) The rate of \$99.36 per year for maintenance of each fixture, steel pole, and underground cable supplying energy thereto.

That the Montana Power Company shall install, and at all times own, the above described lighting fixtures, poles, cables and other incidental equipment.

Section 6:

That based upon the above figures, the estimate of the cost of said District for the first year is the sum of \$57,702.24; that three-fourths (3/4) of such cost of said District shall be paid by the owners of the property within said District with each lot, parcel or piece of land within said District to be assessed for that portion of the whole cost which its area bears to the area of the entire District, exclusive of streets, avenues, alleys and public places; the other one-fourth (1/4) of such cost shall be paid by the City of Billings out of the general fund or other fund provided for that purpose. The estimated cost of such District for the first year for an owner of an average lot, 25' x 140', is \$79.92 and the estimated cost to the City for the first year is \$14,425.56.

COMPLAINANTS'
Exhibit 20
PART 2, PAGE 6
OF 9

Section 7:

That the entire cost of said District shall be paid by an annual assessment against the property in said District and by the City of Billings in such proportions as are designated in a preceding section for the first year; and in such proportions as may be hereinafter designated by the City Council for the succeeding years. All monies derived from the collection of such assessments and from the amount so paid by the City shall be paid into a fund to be known as "Special Improvement Lighting District No. 97 Maintenance Fund" and warrants shall be drawn on said Fund for the payment of such cost of maintaining said lights and supplying electrical current therefor.

Section 8:

That on the 23rd day of August, 1960, at 7:30 P.M., at

the Council Chambers in the City Hall in said City, the City Council intends to create said Special Improvement Lighting District No. 97, and will hear objections and protests against the proposed improvements and the extent and creation of such District to be assessed, or any matter pertaining thereto, at said time and place by any person, firm or corporation, who has filed a written notice with the City Clerk of the City of Billings within fifteen (15) days after August 4, 1960, which will be the day upon which the publication of the notice of the passage of this resolution of intention will appear in The Billings Times, a weekly newspaper published and circulated in the City of Billings.

COMPLAINANTS'
EXHIBIT 20
PART 2, PAGE 7
OF 9

Section 10:

That the City Clerk is hereby authorized and directed to send a copy of the notice of the passage of this Resolution of Intention to the owners or agents of owners of all the lots, blocks, pieces, or parcels of land included within the boundaries of said proposed Special Improvement Lighting District No. 97, by mail, postage prepaid, upon the same day said notice is published, said notice to be as follows:

NOTICE OF PASSAGE OF RESOLUTION NO. 9297, A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 97 IN THE CITY OF BILLINGS, MONTANA:

COMPLAINANTS
EXHIBIT 20
PART 2, PAGE 8
OF 9

TO: All persons, firms, or corporations having property within proposed Special Improvement Lighting District No. 97, of the City of Billings, Montana.

NOTICE IS HEREBY GIVEN That the City Council of the City of Billings, Montana, will be in session on the 23rd day of August, 1960, at 7:30 P.M., at the Council Chambers in the City Hall, and then and there will hear and pass upon all protests against the proposed improvements and the extent and creation of such district to be assessed, or any matter pertaining thereto. All protests must be in writing and filed with the City Clerk within 15 days from and after August 4, 1960, the date of the first publication and mailing of this notice. Reference is hereby made to Resolution of Intention No. 97, passed by the City Council and approved by the Mayor on the 2nd day of August, 1960, and now on file in the office of the City Clerk of Billings, Montana, for the description of the boundaries, method of assessment and other particulars of the proposed District.

The general character of the improvements to be made is replacing the existing facilities along and upon portions of the streets and avenues within the boundaries of said District in the City of Billings, Montana, with new ornamental street lights of the mercury vapor type, consisting of 361 ornamental suspension type luminaires and mercury lamps, mounted on 33 foot steel poles, to be served by underground cables, along and upon the streets and avenues within said District, more particularly set out in Resolution of Intention No. 97, (with 16 such units per square block), spaced and located in accordance with the map of said

proposed lighting district on file in the office of the City Engineer of the City of Billings, Montana.

COMPLAINANTS
EXHIBIT 20
PART 2, PAGE 9
OF 9

The estimate of the cost for electrical energy and maintenance for the proposed District for the first year is \$57,702.24; the estimate for the proportion of the cost to be borne by the City of Billings for the first year is \$14,425.56. Based on this estimated cost, the approximate annual cost to a property owner with a lot 25' x 140' is \$79.92.

Dated at Billings, Montana, this 2nd day of August, 1960.

WM. J. FRY, City Clerk

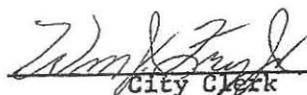


Passed by the City Council and approved by the Mayor this 2nd day of August, 1960.

APPROVED:


_____ Mayor

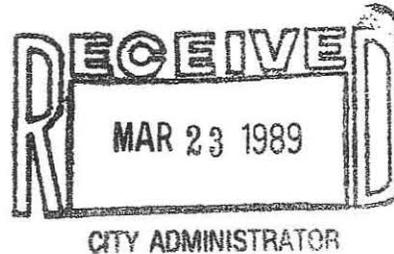
ATTEST:


_____ City Clerk

COMPLAINANTS' Exhibit 21, PAGE 1 OF 6

March 22, 1989

Mr. Alan Tandy
City Administrator
City of Billings
P.O. Box 1178
Billings, MT 59103



Re: ~~SILMD #97~~

Dear Mr. Tandy,

This letter is in response to your December 13, 1988 letter requesting an adjustment of the rates presently being charged for SILMD #97 in downtown Billings.

I can appreciate your concerns with respect to the billing and maintenance charges for this district because of the uniqueness of the clause in the contract for SILMD #97 concerning underground wiring maintenance. After rather exhaustive investigation, I am still not sure of the exact intent as to why that clause was inserted into the contract back in 1960, but was probably because all the wire was under concrete. In any case the clause has not had, nor should it have, any substantial effect on the street light rates charged to the City for this street light district.

The rate for street lights is determined by the amount of investment to install the lights, the power used and operation and maintenance costs.

The large difference between rates for overhead wiring and underground wiring on the same size of street lights is due entirely to the average cost of the investment to install these two types of systems. The cost of the power to serve both systems is the same. The majority of the maintenance and operation costs include changing bulbs, poles and replacing and cleaning glassware. The cost of maintaining the wiring is essentially the same between overhead and underground, with overhead being subject to trees, storms, traffic etc. and underground problems being less frequent but more difficult to locate. Most of the underground street light wiring problems, however, are usually caused by other's digging into the wires and damaging it, in which case the cost to repair the system is billable. Most of the underground street light wire now needing repair on SILMD

#97 was damaged in the past by the City's contractor installing new curbs and sidewalks for the handicapped. Overhead wire was installed as an interim measure by Montana Power at no cost, so the obligation to repair the underground street lighting wires really rests with the City of Billings regardless of the clause in the contract.

Our records indicate that the underground wire on this street light project is owned by Montana Power Company and was originally installed by MPC. Repairing the underground wire would not constitute ownership by the city. If all of the underground wire were replaced, we should discuss what should be done in that case.

Recently installed street lighting districts with underground wiring have been exceptionally costly, largely due to the high cost of trenching and property restoration. A large percentage of the highest cost districts were installed here in Billings. These new districts, when averaged together with all existing districts of the same type with underground wiring have caused the large change in the rates allocated to this type of system.

I hope the above adequately addresses why a refund on SILMD #97 is not warranted and the street light rate currently in effect is correct.

When the underground wiring on this street light project is repaired and the overhead wiring removed, I believe an agreement for Montana Power Co. to maintain the underground wiring should be worked out.

Sincerely,



Glenn Wheeler
Billings Division Manager

COMPLAINANTS' EXHIBIT 21, PAGE 2 OF 6



CITY OF BILLINGS
OFFICE OF THE TRAFFIC ENGINEER

510 N. BROADWAY - 4TH FLOOR

BILLINGS, MT 59101

PHONE (406) 657-8241

COMPLAINANTS' EXHIBIT 21, PAGE 3 OF 6

March 15, 1989

TO: Ken Haag, P.E., Director of Public Works
VIA: Kurt Corey, City Engineer *KC*
FROM: *HS* Terry Smith, City Traffic Engineer
BY:
SUBJECT: W.O. 85-37, CBD Street Light Upgrade (SILMD 97)

John Bowman has reviewed MPC's internal schedule for conversion projects to see if SILMD 97 was scheduled in the near future. It remains several years away.

They are still willing to pursue conversion on the basis proposed several years ago. If the City will "loan" them \$70,000, they will do it this year and pay back the principal only, over a three-year period. Estimated yearly savings with conversion from 1000W MV to 400W HPS is \$38,000.

This follows the plan originally discussed in 1986. The City conceptually approved it then (based on a contract similar to one used in Butte-Silver Bow) but would not commit fully until a cost was set. We would still have to do the wiring repairs (put overhead splices back underground) that Marvin has a design contract for.

Please advise if there is interest in fronting the \$70,000 cost. If so, I will have MPC submit a draft contract.

TS:sw



CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

510 N. BROADWAY - 4TH FLOOR

BILLINGS, MT 59101

PHONE (406) 657-8230



CITY ADMINISTRATOR

COMPLAINANTS' EXHIBIT 21

PAGE 4 OF 6

TO: Alan Tandy, City Administrator
FROM: Ken Haag, P.E., Director of Public Works
DATE: March 23, 1989
SUBJ: CONVERSION OF ~~SILMD #97~~
(Downtown Street Light Districts)

Attached is a copy of a memo to me from Terry concerning the fact that Montana Power Company would be willing to convert the downtown area to high pressure sodium if the City would loan them \$70,000 for a year, interest free.

I am also attaching a copy of the letter that you signed to Montana Power Company concerning the overbilling on this district. My staff has suggested that perhaps we should approach Montana Power Company on the concept that the overpayment that we have made to them could be reimbursed to us over a three-year period if they would use those funds which they already have collected from us in error to provide the conversion at this time.

So that you are aware of it, I have not paid the power bill on SILMD #97 for a three-month period, and I have, in verbal conversation, told the Power Company officials that this is not being paid until we receive a response from your initial letter. I, quite frankly, am becoming very frustrated on the lack of response that we are receiving from Montana Power. However, I do not know what we can do to get more timely responses to our inquiries. I would appreciate the opportunity to talk with you on this subject.

Thank you for your help in this matter.

Sincerely,

Ken Haag, P.E.
Director of Public Works

KH:csb

cc: Terry Smith, City Traffic Engineer
Ellen Smith, Administrative Assistant



**CITY OF BILLINGS
OFFICE OF THE CITY ENGINEER**

510 N. BROADWAY - 4TH FLOOR
BILLINGS, MT 59101
PHONE (406) 657-8231

COUNCIL ACTION: _____

approved

NOV 13 1989

mrh
CITY CLERK

TO: Honorable Mayor and City Council
APPROVED BY: Alan Tandy, City Administrator
FROM: Ken Haag, P.E., Director of Public Works
VIA: Kurt Corey, P.E., City Engineer
FROM: *HP* H. Terry Smith, P.E., City Traffic Engineer
DATE: November 3, 1989
SUBJ: SILMD 97, CBD Lighting

COMPLAINANTS EXHIBIT 2
PAGE 5 OF 6

RECOMMENDATION:

I recommend City Council approval of the attached contract amendment with Montana Power Company for conversion of the street lights in SILMD 97 to high pressure sodium and replacement of temporary overhead wiring with underground wiring.

BACKGROUND:

SILMD 97 covers the street lighting in the core of downtown; bounded roughly by 4th Avenue North, the railroad tracks, North 26th Street, and North 30th Street. This is a Montana Power owned district that was originally created in 1960.

In 1986, two needs were identified by the City for this district. First was to take advantage of the considerable cost savings available by converting the lighting from 1000 watt mercury vapor to 400 watt high pressure sodium units. Second, was to enhance the esthetics of the downtown area by getting rid of all the "temporary" overhead wiring repairs that had been made in the district over the years.

As a company owned district, Montana Power had the ultimate responsibility for converting the lights to high pressure sodium, but the work was at least 3-4 years away in their conversion schedule. As one of the first light districts with underground wiring, the district contract contained a provision that is unique by today's standards. The contract stipulates that Montana Power owns all of the lights, poles, and wiring, but maintenance of all the underground wiring was the City's responsibility.

In 1986, a tax increment project was proposed to do the necessary wiring work, along with a loan to Montana Power Company to cover the cost of converting to high pressure sodium, so the conversion could be done immediately. These projects were put on hold with the streetscape/plaza discussions, so that money would not be spent repairing sidewalks that might ultimately be replaced.

More recently, City staff has been involved in discussions with Montana Power as to whether it is appropriate to pay the higher underground rates for those lights being served by overhead wiring and whether the City should be expected to pay for wiring repairs if Montana Power Company would not assume any future responsibility for the wiring.

The proposed contract amendment represents the results of our negotiations with Montana Power Company. Because of the original contract language, it provides a sharing of responsibilities for the wiring repair. The amendment provides:

- 1) Montana Power will complete the conversion to high pressure sodium by December 1, 1989.
- 2) Montana Power will provide the labor, wiring, and conduit necessary for replacing the overhead wiring runs with underground wiring.
- 3) The City will be responsible for all concrete removal, trench excavation, backfill, concrete replacement, and construction signing for placing existing overhead lines underground.
- 4) Following completion of the work, Montana Power will be responsible for all future maintenance of all wiring in the district.

City staff will work with Montana Power over the winter to update the 1986 inventory of overhead wiring locations. Plans and specifications will then be prepared for a construction contract that can be awarded to one of the local concrete firms to handle the City's portion of the work. It is anticipated that actual construction will begin in April and be complete by August 1, 1990. As noted above, Montana Power Company will have the conversion to high pressure sodium complete by December 1, 1989.

HTS/jrf

COMPLAINANTS EXHIBIT 21, PAGE 6 OF 6



CITY OF BILLINGS
DEPARTMENT OF ADMINISTRATIVE SERVICES

P.O. BOX 1178
BILLINGS, MONTANA 59103
(406) 657-8207
FACSIMILE (406) 247-8608

November 24, 2003

Finance Division 657-8207
Motor Pool Division 657-8229
Parking Division 657-8207
Purchasing Division 657-8216

Mr. Bruce T. Simon
217 Clark Avenue
Billings, MT 59101

Re: Street Light District Billing

Dear Mr. Simon:

Enclosed is a copy of the September bill from NorthWestern Energy for Street Light District #97. This is the district in which your property at 29th Street and 2nd Avenue North is located.

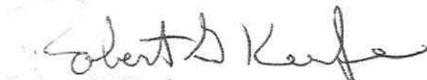
As you can see, there are 352 units in the district and the total bill is \$11,418.08. This averages \$32.44 per unit per month.

Light District assessments are not based on the number of units adjacent to your property. The assessments are based on square footage of the property in the district. The current year assessment in District #97 is \$.073284 per square foot, based on 1,836,678 total square feet in the district.

These charges from NorthWestern Energy are non-metered and are regulated by the Public Services Commission.

If you wish for further information, I would suggest you call the number shown on the bill or contact the Public Services Commission.

Sincerely,


Robert G. Keefe

Cc: Pat Weber
Kristoff Bauer
Scott Jensen

Billings Pride
City-wide



CITY OF BILLINGS
SILMD 97
BILLINGS MT 59103-0000

Account Number: 0712557-8
Bill Date: September 29, 2003
Due Date: October 13, 2003

Previous Balance	Payments/Adjustments	Current Charges	Total Amount Due
\$11,491.83	\$11,491.83 CR	\$11,418.08	\$11,418.08
Account Summary			
NorthWestern Energy Regulated Lighting/Unmetered Charges.....\$			11,418.08
Total New Charges.....\$			11,418.08

- Effective September 1, 2003, the electric supply rate has decreased. The decrease is the result of the monthly electric cost adjustment tracker.
- Please direct all regulated electric and gas inquiries as well as service-related inquiries to NorthWestern Energy Customer Care Center at TOLL FREE 1-888-467-2669 (7 days a week, 7 a.m.- 6.p.m. Mountain Time)
- For further information, visit us on the web at: www.northwesternenergy.com

810-3183-431.34-10 Proj 600097

Customer Name: CITY OF BILLINGS
 Service Address: SILMD 97

Account Number: 0712557-8

Page 2 of 3
 Bill Date: 09/29/2003

NorthWestern Energy Regulated Lighting/Unmetered Charges

From	To	No. of Days	No. of Units	Usage/Unit	Total Unmetered Usage
08/19/2003	09/18/2003	30	338	162.00	54756.00
08/19/2003	09/18/2003	30	11	41.00	451.00
08/19/2003	09/18/2003	30	1	41.00	41.00
08/19/2003	09/18/2003	30	2	162.00	324.00

Description	Usage	Rate (\$)	Total
Supply-Energy	21902.0 @	0.0374790	\$820.87
Supply-Energy	32854.0 @	0.0352670	\$1,158.66
Transmission-Energy	54756.0 @	0.0029400	\$160.98
USBC	54756.0 @	0.0034040	\$186.39
Distribution-Energy	54756.0 @	0.0263020	\$1,440.19
Res. CTC-QF	54756.0 @	0.0024840	\$136.01
Supply-Energy	180.0 @	0.0374790	\$6.75
Supply-Energy	271.0 @	0.0352670	\$9.56
Transmission-Energy	451.0 @	0.0029400	\$1.33
USBC	451.0 @	0.0034040	\$1.54
Distribution-Energy	451.0 @	0.0263020	\$11.86
Res. CTC-QF	451.0 @	0.0024840	\$1.12
Supply-Energy	16.0 @	0.0374790	\$0.60
Supply-Energy	25.0 @	0.0352670	\$0.88
Transmission-Energy	41.0 @	0.0029400	\$0.12
USBC	41.0 @	0.0034040	\$0.14
Distribution-Energy	41.0 @	0.0263020	\$1.08
Res. CTC-QF	41.0 @	0.0024840	\$0.10
Supply-Energy	130.0 @	0.0374790	\$4.87
Supply-Energy	194.0 @	0.0352670	\$6.84
Transmission-Energy	324.0 @	0.0029400	\$0.95
USBC	324.0 @	0.0034040	\$1.10
Distribution-Energy	324.0 @	0.0263020	\$8.52
Res. CTC-QF	324.0 @	0.0024840	\$0.80
Billing Charge	2.0 @	0.2200000	\$0.44
Ownership Charge	12.0 @	2.6000000	\$31.20
Ownership Charge	338.0 @	20.8600000	\$7,050.68
Operations Charge	350.0 @	0.5400000	\$189.00
Maintenance Charge	350.0 @	0.5300000	\$185.50
Total Regulated Lighting/Unmetered Charges			\$11,418.08

Light Maintenance District 97

9-Jan-04

Year	Expenditures
1993	\$ 116,938.56
1994	\$ 100,863.01
1995	\$ 108,879.21
1996	\$ 109,074.19
1997	\$ 122,311.88
1998	\$ 127,114.45
1999	\$ 128,917.41
2000	\$ 127,347.05
2001	\$ 128,020.14
2002	\$ 127,398.21
2003	<u>\$ 136,273.92</u>
Total	\$ 1,333,138.03



40 E Broadway St.
Butte, MT 59701-9394

COMPLAINANTS' EXHIBIT 18,

Page 1
of 2

www.northwesternenergy.com
Customer Service: 1-888-467-2669

CUSTOMER: CITY OF BILLINGS
ACCOUNT NUMBER: 0712557-8
ACCOUNT DESCRIPTION:
BILLING DATE: January 31, 2014

Service Address: SILMD 97 DOWNTOWN BILLINGS, BILLINGS MT 59103

DUE DATE	TOTAL AMOUNT DUE
February 21, 2014	\$ 12,745.27

ACCOUNT SUMMARY

Previous Balance			\$ 12,793.13
Payments Received	January 29, 2014	Thank you	\$ (12,793.13)
Current Charges			\$ 12,745.27

Total Amount Due \$ 12,745.27

SUMMARY OF CURRENT CHARGES

	Delivery Service	Supply Service	TOTAL
Unmetered Service	\$ 9,778.52	\$ 2,966.75	\$ 12,745.27

Total Current Charges \$ 9,778.52 \$ 2,966.75 \$ 12,745.27

BUDGET BILLING INFORMATION

IMPORTANT ACCOUNT INFORMATION

MESSAGE BOARD

Questions about your bill or service? Call the NorthWestern Energy Customer Contact Center TOLL FREE at 888-467-2669 (Monday through Friday, 7 a.m.-6 p.m. Mountain time) or visit us at: www.northwesternenergy.com. Effective 1/1/2014, electric supply rates have decreased from the previous month as a result of the supply tracker. The delivery rates have decreased as a result of the annual property tax tracker.



www.northwesternenergy.com

Account Number: 0712557-8
 Customer Name: CITY OF BILLINGS
 Service Address: SILMD 97 DOWNTOWN BILLINGS, BILLINGS MT 59103

COMPLAINTS' Exhibit 18,

Page 2
 OF 2

NorthWestern Energy: 1-888-467-2669
 Customer Service: (M-F 7 AM - 6 PM)
 and Emergencies 24 hours a day

PAY BY PHONE OPTIONS:

Credit/Debit or ATM Card:
 1-877-361-4927

Checking, Savings, or Money Market:
 1-800-218-4959

Customers with unanswered questions
 or concerns may contact the Public
 Service Commission at 1-800-646-6150
 or write the PSC at PO Box 202601,
 Helena, MT 59620-2601.

DELIVERY SERVICES

UNMETERED DELIVERY

Read Dates		Days	Number of Units	Usage per Unit	Billed Usage
From	To				
12/30/2013	1/30/2014	31	298	162.00	48276.00
12/30/2013	1/30/2014	31	11	41.00	451.00
12/30/2013	1/30/2014	31	1	41.00	41.00
12/30/2013	1/30/2014	31	2	162.00	324.00
12/30/2013	1/30/2014	31	1	162.00	162.00
12/30/2013	1/30/2014	31	5	99.00	495.00

Rate: Lighting

318

Delivery Charges	\$	2,013.36
LS Billing Charge	\$	0.75
LS Ownership Charge	\$	36.12
LS Ownership Charge	\$	7,335.84
LS Operations Charge	\$	199.08
LS Maintenance Charge	\$	193.37
Electric Unmetered Delivery Total	\$	9,778.52
TOTAL DELIVERY SERVICES	\$	9,778.52

7571.24

SUPPLY SERVICES

UNMETERED SUPPLY

Electric Unmetered Supply	49749.00	\$	2,966.75
Electric Unmetered Supply Total		\$	2,966.75
TOTAL SUPPLY SERVICES		\$	2,966.75

Rate definitions and how to calculate
 your bill may be found on our website:
 www.northwesternenergy.com