Service Date: January 8, 1992

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

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IN THE MATTER of the Application of the City of Great Falls for Authority to Increase Rates and Charges for Water Service to its Great Falls, Montana, Customers.	)))))	UTILITY DIVISION DOCKET NO. 90.10.67 ORDER NO. 5523h

ORDER ON MOTION FOR RECONSIDERATION

1. On November 20, 1991, the Montana Public Service Commission (Commission) issued Order No. 5523g disposing of all matters concerning cost-of-service (COS) and rate design then pending in this Docket. On December 6, 1991, Federal Executive Agencies (FEA), an intervenor, filed a Motion for Reconsideration on the issues of COS and rate design on behalf of Malmstrom Air Force Base (Malmstrom).

2. At a December 17, 1991, work session scheduled at the regularly held agenda on December 16, 1991, the Commission considered the issues raised in FEA's motion.

3. In its Motion for Reconsideration FEA argues that the Commission incorrectly placed the burden of disproving the reasonableness of the City's COS study on FEA (See Final Order on Cost-of-Service/Rate Design, Order 5523g, paragraph 9). FEA submits that the applicant must bear the burden of proving that the requested rates are justified and reasonable.

4. "It is an axiom of utility law that a utility seeking increased rates has the burden of showing its claims are reasonable." Montana Power Company v. Department of Public Service Regulation, 204 Mont. 224, 230 (1983). In relation to its revenue requirements, a utility enjoys a presumption that its expenditures were reasonable and prudent. See Re Montana-Dakota Utilities Company, 1 PUR 3d (Docket No. 4113, Order No. 2419,

1953) (presumption that a utility conducts its business with economy and efficiency). However, this presumption is disputable and, consistent with Rule 301(b)(2) of the Montana Rules of Evidence, may be overcome by a preponderance of evidence contrary to the presumption.

5. A utility's COS study is not entitled to the same presumption. A traditional COS study proposes a methodology for allocating costs and revenue needs among various customer classes or rate classifications. The COS study, as a proposal, is not a fact capable of presumption. It may be accepted, rejected or modified by the Commission. Montana-Dakota Utilities Co. v. Bollinger, 38 St. Rep. 1221, 1227 (1981) (PSC should not be restricted to any single formula when determining reasonableness so long as the method followed, when applied to the facts and viewed as a whole, does not produce an unjust or arbitrary result). Therefore, when an applicant utility wants the Commission to accept its COS methodology, it must satisfy the burden of proving that the methodology is reasonable and just.

6. Similarly, if a party wants the Commission to accept a different COS methodology, it too must prove that its methodology will result in a just and reasonable allocation of costs. In any event, the Commission is not bound to either the applicant utility's COS methodology or that of any other party. The Commission only is bound to select a method that results in just and reasonable rates. See Montana-Dakota Utilities Co. v. Bollinger.

7. On this basis the Commission accepted the City's COS methodology. To the extent that FEA disputed the reasonableness of this methodology or wanted the Commission to adopt a modification thereof, it was under a burden to come forth with evidence on which the Commission could rely. This FEA did not do. Final Order on Cost-of-Service/Rate Design, Order 5523g, paragraphs 9-10.

8. In its motion FEA requests that the Commission reconsider the allocation procedure for assignment of costs associated with

lost and unaccounted-for water. In the approved COS study costs associated with lost and unaccounted-for water are implicitly assigned to each customer class in proportion to water use. FEA in its motion states that "Lost and unaccounted-for water is primarily the result of two factors: losses of water in the distribution system and meter inaccuracies." FEA contends that because these are the primary sources of lost and unaccounted-for water the Commission's acceptance of the implicit allocation of costs results in Malmstrom and Black Eagle being assigned excessive costs.

9. FEA argues that because Malmstrom and Black Eagle each provide a local water distribution system, beyond the master meter location, they pay for local distribution lost and unaccounted-for water as part of the monthly billing. Because billed water volumes include local distribution system lost and unaccounted-for water, FEA reasons that, for Malmstrom and Black Eagle, use of the implicit allocation results in some double charging of costs associated with total system losses. The Commission agrees with FEA that the authorized COS ignores the local distribution system losses for which Malmstrom and Black Eagle already compensate the City.

10. FEA in its motion proposes that the Commission adopt the allocation adjustment proposed by FEA witness Catlin regarding costs associated with lost and unaccounted-for water. Witness Catlin's proposal apportions the water system's total lost and unaccounted for water between the primary transmission and distribution network and the local distribution system. All customer classes are allocated losses associated with the primary transmission and distribution system. The losses associated with the local distribution system are allocated to all customer classes except Malmstrom and Black Eagle. The Commission upon reconsideration finds the proposal of FEA to be reasonable. The proposal represents a more equitable method of allocating costs associated with lost and unaccounted-for water given the fact that Malmstrom and Black Eagle compensate the City for losses associated with local distribution through payment of the monthly

bill.

11. The Commission finds the City should modify its COS study to incorporate the allocation of costs associated with lost and unaccounted-for water as proposed by FEA witness Catlin. The procedure for calculating lost and unaccounted-for water as found appropriate herein is in FEA Exhibit No. 2.

CONCLUSIONS OF LAW

1. The Applicant, the City of Great Falls, is a public utility as defined in Section 69-3-101, MCA. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's rates. Title 69, Chapter 7, MCA.

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

3. The rates and rate structure approved in this order are just and reasonable. Sections 69-3-201, and 69-3-330, MCA.

ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The City of Great Falls shall file rates consistent with the Findings of Fact contained in Order No. 5523g as modified herein.

2. The rates approved herein shall not become effective until the tariffs, revenue bond ordinance(s), and necessary calculations relating to debt costs and cost-of-service have been submitted for review by the Commission.

DONE IN OPEN SESSION at Helena, Montana, this 6th day of January, 1992, by a 3 - 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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BOB ANDERSON, Commissioner

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JOHN B. DRISCOLL, Commissioner

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WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

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