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Service Date: November 16, 1992

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

* * * * *

IN THE MATTER OF LA CASA GRANDE ESTATES WATER COMPANY, Application for Authority to Increase Rates and Charges for Water Service to Customers within its Service Area.	)))))	UTILITY DIVISION DOCKET NO. 91.2.3 ORDER NO. 5610b

PROCEDURAL ORDER

INTRODUCTION

1. On October 27, 1992 the Montana Public Service Commission (PSC) issued a Proposed Procedural Order (proposal) for purposes of establishing the schedule and procedures applying in the above-entitled matter. By November 9, 1992, pursuant to the schedule in the proposal, comments were received from two parties, La Casa Grande Estates Water Company (LWC) and the Montana Consumer Counsel (MCC).

COMMENTS AND ANALYSIS

2. LWC requested clarification on which parties are to receive notices and service of the various documents, including discovery, that will be exchanged in this proceeding. LWC requested that the active intervenors be limited to MCC and Jerome Woodward, basing its request on historic practice in LWC

proceedings before the PSC and on an asserted legal requirement that the MCC act as the representative of consumer interests.

3. It appears that the historical practice in LWC proceedings is that the MCC, Jerome Woodward, and, possibly, a few others have been the designated active intervenors. However, this does not preclude any others from becoming active intervenors, if they would be so inclined. It is also true that the MCC is statutorily charged with representation of consumer interests in matters before the PSC. However, there is no provision, expressed or implied in this charge, that precludes any consumer or group of consumers from individually participating as active intervenors in PSC proceedings, with or without assistance from the MCC.

4. Nevertheless, from a practical standpoint, LWC has several good points. Participation and an exchange of all documents, including discovery, by the 120-plus consumer intervenors would be a burden in time and expense -- individually retaining counsel or witnesses (as might be necessary) drafting initial and responsive documents, copying, mailing, etc. -- for all concerned. Furthermore, active intervenors take on a wealth of affirmative obligations in participating in the case and risk dismissal for failure to meet those obligations. The PSC is inclined to believe that most of the consumer intervenors are principally interested in receiving notice of the hearing and otherwise merely planning to maintain a public witness status and

defer to the MCC to take on the affirmative legal and technical obligations of the matter on behalf of the consumer interest. However, at this point, the PSC cannot compel that. The proposal will be modified to obtain clarification on the consumer intervenors' desired status.

5. The MCC requested that each date in the procedural schedule be extended by two weeks to accommodate a conflict during the week of November 16, 1992. It also comments on a difficulty in filing testimony on the first working day following Christmas.

6. The conflict warrants a change to the proposed schedule and a change will be made. That any particular filing happens to be due at a time near a holiday, as a legitimate justification for amendment, is questionable. However, since it is raised, since a change will be made for other reasons, and since the MCC's proposal of a two week extension of all times places LWC in a position to file at or near the same holiday, further adjustment will be made to avoid a filing near such holiday.

ORDER

The PSC adopts the October 27, 1992, Proposed Procedural Order, by this reference incorporating it herein, in its entirety, as a part of this Procedural Order, with the following modifications to accommodate the parties' expressed concerns.

(1) The proposal's paragraphs 2, 5, 6, and all other provisions relating to "intervention" or "party" status or "service" are amended to include:

"Parties" includes La Casa Grande Estates Water Company, the Montana Consumer Counsel, and Jerome Woodward. All other persons granted intervention shall be deemed "public witnesses" and shall not have the obligations or rights of parties, except to receive notice of hearing and provide testimony as public witnesses unless:

(a) within 10 days of the service date above any LWC consumer having been previously granted intervention individually (not jointly) applies for status as a "party" and intends to accept the obligations accompanying that status; or

(b) within 10 days of the service date any group of LWC consumers jointly or individually having been granted intervention applies for status as a "party," is represented by legal counsel, and is intends to accept the obligations of that status.

(2) The proposal's paragraph 3 and all other provisions relating to "schedule" is amended to read: All dates listed in the following schedule are mailing dates unless otherwise specified. Parties must mail all material by the most expeditious method available at reasonable cost. Parties may make arrangements among themselves for the use of express mail.

(a) November 16, 1992: Procedural Order (final) issued.

(b) November 30, 1992: Final day for consumer intervenors to request active party status.

(c) December 4, 1992: Final day for written discovery to La Casa from intervenors.

(d) December 22, 1992: Final day for La Casa's response to intervenor discovery.

(e) January 6, 1993: Final day for answer or prefiled testimony from intervenors.

(f) January 22, 1993: Final day for written discovery to intervenors from La Casa.

(g) February 5, 1993: Final day for intervenors to answer written discovery from La Casa.

(h) February 19, 1993: Final day for reply or prefiled rebuttal testimony from La Casa.

(i) March 5, 1993: Final day for written discovery to La Casa (reply or rebuttal testimony only) from intervenors.

(j) March 19, 1993: Final day for La Casa to answer written discovery (rebuttal testimony only) from intervenors.

(k) March 26, 1993: Final day for each party to file a prehearing memorandum listing issues that it views as contested, witnesses it intends to call at hearing, exhibits it intends to introduce at hearing, and re-

sponses to any discovery to date that it intends to introduce at hearing.

(l) April 2, 1993: Final day for depositions.

(m) April 7, 1993: Hearing commences and continues from day to day until concluded.

Done and dated this 12th day of November, 1992, by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

TED C. MACY, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

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