Service Date: November 7, 1994

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 Mountain Water Company for Authority to Increase Rates and Charges for Water Service to its Missoula, Montana Customers.	)))))	UTILITY DIVISION DOCKET NO. 94.7.26 ORDER NO. 5795a

INTERIM RATE ORDER

FINDINGS OF FACT

1. On July 15, 1994, Mountain Water Company (Applicant or Mountain Water) filed an application with this Commission for authority to increase water rates for its Missoula, Montana, customers by approximately 22.6 percent, which constitutes an annual revenue increase of approximately $1,493,348.

2. Concurrent with this filing for a permanent increase in rates, Mountain Water filed an application for interim rate relief. Mountain Water requested an interim increase in rates of 19.0 percent, equalling a revenue increase of approximately $1,251,850 or 84 percent of the proposed permanent increase.

3. The interim rate request includes increases in booked expenses of the utility and additional adjustments not accepted in previous Commission orders. Among these adjustments are projected insurance cost increases; increased main office expenses; power cost increases attributed to a Montana Power rate increase; and a cost of living adjustment.

4. Pursuant to ARM 38.5.506, the Commission in considering a request for an interim rate increase is guided by generally

established principles of utility rate regulation. As required by ARM 38.5.506(2) for general rate increase requests, the Commission normalizes and annualizes test year booked financial information. The Commission then makes adjustments determined in the last general rate order of the utility, using the methodology and rate of return on equity from that order, applied to the test year amounts. The Commission, in its discretion, may waive these rules. ARM 38.5.508. In this instance, the Commission finds that it is unnecessary to apply the procedure in ARM 38.5.506(2). Intervenor testimony indicates appropriate interim rate relief for Mountain Water. Therefore, the Commission waives the procedure in ARM 38.5.506.

5. On October 13, 1994, Montana Consumer Counsel (MCC), the City of Missoula (City) and District XI Human Resource Council (HRC), intervenors in this Docket, filed direct testimony regarding Mountain Water's requested rate increase. MCC and the City in their testimonies challenged the need for the level of revenue increase requested by Mountain Water. However, only MCC provided a specific revenue increase recommendation. MCC's testimony establishes a need for a revenue increase of $674,645.

6. MCC's testimony shows that Mountain Water operations for the test period produced an overall rate of return of 7.73 percent (see Schedule 1). MCC and Mountain Water have stipulated to 10.79 percent being an acceptable overall rate of return for Mountain Water, and MCC's testimony incorporates the terms of that stipulation. This compares to Mountain Water's last authorized overall rate from the last general rate order of 11.361 percent.

Schedule 1

	At Present Rates	At Proposed Rates
Revenues	6,938,036	7,612,690
Dollar Increase		674,654
		9.72%
O & M Expense	4,327,216	4,328,642
Depreciation	564,464	564,464
Taxes Other Than Income	616,427	618,518
Income Taxes	384,648	642,734
Total deductions	5,892,755	6,154,358
Operating Income	1,045,281	1,458,332
Rate Base	13,515,588	13,515,588
Return on Rate Base	7.73%	10.79%

7. The Commission finds that the difference between the test period return and the stipulated return constitutes an income deficiency. Deferring rate relief until a final order can be issued may adversely affect the utility's financial condition. Further, under current ratemaking standards, the utility may be entitled to rate relief at the time a final order is issued in this proceeding.

8. The Commission finds that Mountain Water is entitled to interim rate relief of $674,654 on an annual basis. (See Schedule 1, Finding of Fact No. 6)

9. Mountain Water has requested that it be allowed to assess its customers in the former Clark Fork Water Co. service territory the same rates as its other customers. Mountain Water desires to generate any interim relief granted by the Commission by increasing the rate for all services it provides under its

Mountain Water tariff on the basis of a uniform percentage increase. The Commission finds that Applicant's request for a uniform percentage increase in its Mountain Water tariff, applicable to all service charges, is reasonable.

CONCLUSIONS OF LAW

1. Mountain Water Company is a public utility furnishing water service to customers in the Missoula, Montana area. As such, it is subject to the supervision, regulation and control of this Commission pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA).

2. Section 69-3-304, MCA, provides in part, "The Commission may in its discretion, temporarily approve increases pending a hearing or final decision."

3. The Commission concludes that the grant of an interim rate increase as set forth is just, reasonable and within the discretion granted by Section 69-3-304, MCA.

ORDER

NOW THEREFORE, IT IS ORDERED THAT:

1. Mountain Water Company is hereby granted authority to implement on an interim basis increased rates for its Missoula, Montana customers, designed to generate additional annual revenues in the amount of $674,654.

2. Mountain Water Company shall file revised tariff schedules spreading the increased revenues as a uniform percentage increase to all services.

3. The increase granted herein is subject to rebate should the final order in this Docket determine that a lesser increase is warranted. Such rebate would include interest at 12.0 percent per annum.

4. The interim relief granted in this Order is to be effective for billings rendered on and after October 31, 1994.

DONE IN OPEN SESSION THIS 31st day of October, 1994, by a vote of 4 -1 at Helena, Montana.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

_____
BOB ANDERSON, Chairman

_____
BOB ROWE, Vice Chairman
(WRITTEN DISSENT ATTACHED)

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DAVE FISHER, Commissioner

_____
NANCY McCAFFREE, Commissioner

_____
DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson
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.

DISSENT OF COMMISSIONER ROWE

I dissent from the Commission's decision to grant an approximately 10 percent increase in Mountain Water rates. For flat rate customers of the old Clark Fork system, the percentage increase will be much higher.

Interim rate relief is granted in order to avoid undue financial harm to the utility. When after a hearing the final order results in an amount smaller than was granted on an interim basis, the utility is ordered to pay its customers a refund.

In this case, the utility requested interim rate relief of 19 percent. The Commission staff analyzed the request and recommended the smaller amount approved by the Commission majority. Absent some showing of hardship or special circumstances, I believe a 10 percent pre-hearing increase is still generally too large.

Section 69-3-304, Montana Code Annotated does not require hearings on temporary rate increases, providing rebates instead. The statute provides that the Commission "may, in its discretion" order temporary increases, and provides that the Commission should apply "consistent standards appropriate for the nature of the case."

This section is implemented in ARM 38.5.506. Subsection (2) specifies rules for determining interims in general revenue cases and provides the procedures "may be modified and other adjustments made as deemed appropriate by the commission." These were the rules generally followed by the majority in this case.

Subsection (3)(c) adds the requirement in tracking cases[1] of a "clear showing that deferred rate relief would result in irreparable financial harm to the petitioning utility."

To advance the discussion, I propose for consideration an amendment to subsection (2) limiting interim increases in general revenue case to 5 percent, but allowing the utility to exceed 5 percent based upon the kind of showing now required in tracker cases.

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[1]Tracking cases are those which concern a "single, clearly measurable expense item." ARM 38.5.505(3). The best example is a natural gas tracker where the utility is allowed to increase the rates it charges based upon increases in the cost of a specific input, natural gas. The Commission will be reviewing the question of whether gas trackers are still appropriate.

The majority's decision is grounded in a sincere desire to act consistently.[2] I respect that. At the same time, I have myself consistently argued in writing and orally that the Commission's approach to interims must be re-evaluated. I do not oppose interim increases in all cases. However, with generally low inflation, regularly-scheduled revenue requirements cases, year-end filings under the Commission's "optional filing rules,"[3] and rapid case processing, the argument for very large interims will usually be weak. My suggestion for an exception to a 5 percent cap would allow for situations such as small water

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[2]My dissent is grounded in my view about the appropriate role of interims, and my concern for fairness to customers as well as the utility. Additional factors not discussed in the body of the dissent which make a lower figure reasonable include: 1. Assuming test period adjustments agreed to by the Montana Consumer Counsel (MCC), Mountain Water is earning less than its last-authorized rate of return, but is still in a positive earnings position (7.7 percent return). 2. At least some of the adjustments incorporated in the interim are open to review (e.g., acquisition adjustment for purchase of Clark Fork). 3. The interim order assumes the capital structure agreed to by MCC and Mountain Water. However, the City of Missoula has proposed a capital structure with more debt, which if accepted would affect the overall rate of return.

[3]Utilities may elect to file revenue cases under either the traditional rules, which use an historic test year, or under the "optional rules," in which information is updated to year-end figures, providing more current financial information than does an historic test year. Generally, the optional rules are more favorable for a utility experiencing increased costs, while the traditional rules might be more favorable for a declining-cost utility. The optional rules also generally require revenue case filings every other year. Mountain Water has elected the optional rules.

companies facing large outlays to meet federal or state mandates. Even there, a rule of reason should apply.[4]

Neither the Montana Consumer Counsel nor individual ratepayers are well-situated to participate before cases reach the final hearing stage. Therefore, in addition to reviewing the financial information, the Commission needs to use common sense in recognizing the difference between "enough" and "too much."

RESPECTFULLY SUBMITTED this7thday of November, 1994.

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BOB ROWE
Vice Chair

[4]In Docket 93.12.64, Midvale Water, the Commission approved a 65 percent interim increase, based on application of the Commission's current rules as applied. Commissioner McCaffree joined me in a dissent.