Service Date: May 4, 1995

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

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IN THE MATTER OF THE CITY OF LEWISTOWN, Application to Increase Rates and Charges for Water Service in its Lewistown, Montana, Service Area.	))))	UTILITY DIVISION DOCKET NO. 95.3.11 ORDER NO. 5847

PROCEDURAL ORDER

Introduction

1. The Public Service Commission (PSC) hereby establishes the procedure and schedule to be followed in this docket. Any request for reconsideration of this Order must be submitted to the PSC within 10 days of the service date above. Request for reconsideration will be scheduled for the PSC's next available business meeting following a request and the parties will be informed of the action taken. This Order is effective immediately and remains effective unless and until modified by action of the PSC.

Schedule

2. All dates listed in the following schedule are mailing dates (filing and service) unless otherwise specified. Parties shall mail materials in the most expeditious fashion available at reasonable cost. Dates and procedures after the date set for hearing are subject to change at the close of hearing.

(a) May 26, 1995: Final day for written discovery (includes data requests) from intervenors to Lewistown on Lewistown's application and prefiled testimony.

(b) June 9, 1995: Final day for Lewistown to respond to intervenor discovery.

(c) June 30, 1995: Final day for initial prefiled testimony from intervenors.

(d) July 14, 1995: Final day for written discovery on intervenor prefiled testimony.

(e) July 28, 1995: Final day for intervenors to respond to written discovery on intervenor prefiled testimony.

(f) August 4, 1995: Final day for Prehearing Memorandum.

(g) August 9, 1995: Hearing commences and continues from day to day until concluded.

(h) August 18, 1995: Transcript available to parties.

(i) August 29, 1995: Simultaneous initial briefs from parties.

(j) September 7, 1995: Simultaneous answer briefs from parties.

(k) September 21, 1995: Target date for Final Order by PSC.

3. In addition, prehearing conferences may be separately scheduled and conducted. Interim relief (requested by Lewistown) may be considered and acted upon.

Procedure

General

4. Unless otherwise stated in this Procedural Order the procedure governing this docket is set forth in applicable provisions of: (a) Title 69, MCA, public utilities; (b) Title 2, Chapter 4, MCA, MAPA; (c) ARM Title 38, Chapter 2, procedural rules of the PSC; (d) tariffed procedures; and (e) previous Orders of the PSC bearing specifically on the procedure in this docket.

Service and Filing

5. Copies of all pleadings, motions, discovery requests, discovery responses, prefiled testimony, and briefs shall be filed with the PSC and served on all parties ("parties" includes Lewistown and all intervenors). In the case of a filing directed to the PSC, such as motions, testimony, and briefs, the original and 10 copies shall be filed. Service upon the parties shall be upon each party's attorney of record and such other individuals as may be reasonably designated by the attorney of record. The parties may agree to limit service of discovery responses except for service upon the PSC.

Intervention

6. Parties seeking to intervene must file a Petition to Intervene with the PSC. So long as the time set for intervention as a matter of right is met, intervention shall be deemed granted subject to a later ruling on standing (if necessary). In the case of late intervention, the

intervenor must: (a) identify the general position that the intervenor will take if the intervention is granted; (b) demonstrate a legally protectable interest directly affected by this docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding in this docket; and (d) good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the PSC.

Discovery

7. The term "discovery" includes all forms of discovery authorized by rules of the PSC. The term "written discovery" as used in this order includes data requests. The PSC urges all parties to conduct discovery through the use of data requests as much as possible.

8. The PSC directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign their data requests a request number (e.g., MCC-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to Lewistown, PSC-009 through 016 to MCC, and PSC-017 through 019 to Lewistown).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number, page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Multi-part requests may be used, each part denoted by a lower case letter (a, b, c, d, and e). Requests must be limited to five (a-e) parts. If additional parts are necessary additional requests must be made. A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500 RE: Purchased Gas Contracts
Witness - Doe, Page JBB-4, Lines 13-15.

Please provide the origination and expiration date for each contract.

PSC-501 RE: Bypass
Witness - Roe, Page DAJ-14, Lines 11-14.

a. What risks of bypass would be avoided by the shareholders as a result of the company's proposed treatment?

b. What risks of bypass would be avoided by the ratepayers as a result of the company's proposed treatment?

9. The party receiving the written discovery or data request has five days from receipt to object. The objection and notice thereof shall be filed with the PSC and served on all parties. The PSC may dispose of objections by prompt ruling or may schedule arguments. Failure to timely object will be deemed acceptance of the request.

10. Any requesting party dissatisfied with the response to any written discovery or data request and desiring PSC action to compel, must, within five days after receipt of such response, file before the PSC and serve all parties, the objection or motion and relief requested. The PSC may dispose of such objection by prompt ruling or may schedule argument. The PSC will act to either sustain or overrule the objections. If an objection is sustained, a time period will be set within which a satisfactory response must be made.

11. Submission of written discovery after the period established will be allowed by leave of the PSC only. Requests will not be permitted unless the party making the request shows good cause as to why the request was not submitted within the time period allowed.

12. Unless excused by the PSC, failure by a party to answer data requests or other discovery from any party may result in: (a) action refusing to allow the failing party to support or oppose related claims; (b) action prohibiting introduction of related matters in evidence; (c) action striking pleadings, testimony, or parts thereof; (d) action staying further proceedings until the request is satisfied; or (e) action dismissing the case, defense, proceeding, or parts thereof.

Testimony and Evidence

13. The PSC contemplates a complete identification of issues prior to the time of hearing. Introduction of new issues or data in new areas at the time of hearing will be carefully

scrutinized and will be subject to disallowance unless reasonably related to issues earlier identified in the application, prefiled testimony, or proceedings.

14. At hearing, prefiled direct and answer testimony will be adopted into the record by motion of the proponent without the need of recitation by the witness. The testimony will be an exhibit and not otherwise entered into the transcript.

15. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter for the preferred manner of identifying exhibits.

16. When cross-examination is based on a document, not previously filed with the PSC, copies of the document must be made available to each commissioner, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each commissioner, the PSC staff, and all parties. This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, and if previous arrangements have been made with the PSC and all parties.

17. Parties may be permitted to present live rebuttal testimony, including if it is in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness. Such testimony will be allowed only by leave of the PSC or presiding officer.

18. Citizens and citizen groups will, in the discretion of the PSC, be allowed to make statements without having submitted prepared written testimony. In addition, if they have prepared written testimony they may read it if they desire, or they may have it adopted directly into the record.

19. The Montana Rules of Evidence in effect at the time of the hearing in this docket will govern at the hearing.

20. Any party to this proceeding having responded, itself or through agents, to written discovery from any other party or the PSC, shall have all persons authoring each response present and available as a witness at the hearing for the purposes of introduction of the discovery and cross-examination thereon. Reasonable alternatives to this requirement, such as waiver of objection to introduction absent the author and waiver of right to cross-examine, agreed to by

the parties may be accepted if approved by the PSC. Written discovery (not including transcripts of depositions on oral examination) and data requests will not be introduced at hearing unless done in accordance with applicable rules of evidence and through an appropriate witness subject to cross-examination or upon stipulation approved by the PSC.

Prehearing Motions and Conferences

21. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this docket shall be raised at the earliest possible time. Prehearing motions shall be submitted on briefs unless otherwise requested by a party and approved by the PSC. If oral argument is granted, the party requesting oral argument shall notice the same for hearing before the PSC.

22. The PSC may, at any time prior to the hearing, set a prehearing conference for discussion of, among other things, the feasibility of settlement of any issues in the proceeding, the simplification of issues, the possibility of obtaining admissions of fact and documents, the distribution and marking of written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

23. Nothing in this Order shall be construed to limit the legally established right of the PSC or its staff to inspect the books and accounts of Lewistown at any time.

Prehearing Memorandum

24. The Prehearing Memorandum shall be from each party unless the parties agree to file jointly. It shall contain a list of all issues determined to be uncontested, all issues determined to be contested, witnesses intended to be called to testify or stand cross-examination, exhibits intended to be introduced, and discovery, to date, intended to be introduced at hearing. Identified responses to data requests to be introduced at hearing will be accompanied by a proper identification of the request, the witness responsible for the response, and the issue to which it relates. Any special needs to accommodate witness sequence or scheduling should be identified in the Prehearing Memorandum.

Open Meetings

25. All PSC meetings regarding this docket are open meetings except as otherwise required or permitted by law. Parties will not routinely be notified of PSC business meetings

or work sessions that may pertain to discussion or action on matters within this docket. Notification of PSC work sessions concerning this docket will be provided to all persons requesting notification through the PSC's weekly agenda mailing list.

Done and dated this 3rd day of May, 1995, by delegation to PSC staff as an Order of the PSC.

BY THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair
DAVE FISHER, Vice Chair
BOB ANDERSON, Commissioner
DANNY OBERG, Commissioner
BOB ROWE, Commissioner