

April 22, 2012

UTAH PUBLIC  
SERVICE COMMISSION

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Utah Public Service Commission

Heber M. Wells Building

160 East 300 South

Salt Lake City, UT 84114

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RE: Docket Numbers 11-097-01, 11-097-02 and 11-097-03

Dear Sir/Madam:

Regarding the Application of Mountain Sewer Corporation for General Rate Increase, including the Application for General Rate Increase, Application for Special Assessment, and Application for Interim Rate Increase, we are categorically opposed to any change in the existing tariff regulating this utility until a full audit and investigation have been completed by the Public Service Commission ("PSC") and/or Utah State Attorney General.

Disappointing is not the right word to use in the context of what has transpired with respect to the operation and oversight of Mountain Sewer and its companion utility, Lakeview Water. Both Weber County, as the body politic, and the PSC have a duty to ensure that a regulated utility is providing a consistent and quality level of service, at a rate of return to the owner sufficient to allow ongoing operations for that given level of service and quality. In this case, even with the significant percentage increases proposed, no one customer is impacted sufficiently to warrant spending much in the way of resources to object—it just isn't worth it. However, the collective increase, especially when projected out 3-5 years, including the already approved lots and agreed- to sewer connections, is astronomical. Additionally, if this rate increase is allowed to go through, we will have the same scenario with Lakeview Water. This is what Weber County and the PSC are supposed to protect consumers from, not encourage.

It is requested:

1. That the PSC expeditiously complete a full audit and investigation into the financial and organizational structure of both Mountain Sewer and Lakeview Water, and take appropriate action.
  - a. Customers have formally provided on numerous occasions examples of overbilling for connection fees, no billing for services, service disruptions, complete disregard for tariff schedule, likely commingling of funds, likely misappropriation of funds (connection fees not being deposited into corporate accounts), etc. To date, most of this information has been ignored.

- b. The above allegations are serious. They not only expose Weber County and the PSC to liability, they also should expose Mountain Sewer, Lakeview Water, and the current and former owners to fines and, potentially, criminal prosecution.
    - c. Did the former owner “steal” funds designated for Mountain Sewer?
    - d. Is it possible that the lawsuit Lakeside Village has against Mountain Sewer for property damage could pierce Mountain Sewer’s corporate veil and result in much of the raw land that Valley Utility Company, LLC. (Mountain Sewer’s sole shareholder) owns becoming part of the condo association?
2. That the PSC thoroughly review the transfer/sale of Mountain Sewer, Lakeview Water, and the other property to Valley Utility Company, LLC. and issue a ruling on whether or not the transfer/sale of the utilities is approved and, if so, how it will account for the value of the land, other than the utilities, included.
  - a. From reviewing the loan documents between Mountain Sewer, Lakeview Water, and KBC Leasing (a predecessor, it is believed, to Valley Utility Company, LLC.), it appears that for a total of \$305,000, KBC Leasing became the owner of Mountain Sewer, Lakeview Water, and other raw land approved for development of 66 lots.
  - b. Each of the 66 lots has a marketable value of at least (based on current selling price and deposits received) of \$125,000, for a total of \$8.25M. Adjusting for development costs (from documents on file at Weber County for Edgewater Chalets, Phase 5) at \$48,000 per lot, there is a potential profit of nearly \$5.1M. No wonder the transaction happened so quickly, with little or no due diligence.
  - c. Should current Mountain Sewer and Lakeview Water customers bear the financial burden of repairs and needed improvements that were the result of an alleged overbuilt system, deferred, neglected or non-existent maintenance, and financial malfeasance of the operators and owners?
  - d. Since no rate increase had been requested by Mountain Sewer from its inception, and “Typically, the developer would retain and subsidize the *sewer* system until the *sewer* system is developed completely and all lots are sold (italics added, from <http://www.psc.utah.gov/utilities/water/waterindx/documents/09243801ROcn.pdf>), shouldn’t the burden of the improvements fall upon the developer, especially in light of the value of the raw land included in the transfer and the percentage of lots remaining undeveloped?
3. That the PSC determine the current capacity of Mountain Sewer and its ability to provide adequate service to its existing customers, additional 70 lots, and the 100 connections granted to Weber County.
  - a. In exchange for 100 sewer connections, Weber County granted a third zoning extension for land included in the transfer/sale back in 2010. Had the extension not been granted, the zoning would have reverted back to a density of one house per 3 acres, rather than one house per 1 acre.

Additionally, why Weber County didn't ask for 100 water connections at the same time is beyond reasoning.

- b. At the Weber County Commission public hearing for the extension, December 21, 2010, and in other documents, there is conflicting information given on the capacity of the system.
  - c. What is the system capacity the customers should be paying for?
4. That the PSC consider the following:
- a. To date, Mountain Sewer has maintained that their financial records are non-existent, missing, or a mess. Where did the information provided for in the Application for General Rate Increase exhibits come from?
  - b. Are the books of Mountain Sewer being done properly now? Who is checking?
  - c. The new basic sewer tariff amount requested, \$57.06, is conveniently close to the "guidelines for affordable sewer bills."
  - d. A special assessment is called that for a reason. When reviewing what is included in this (Exhibit G), most of it is for a net operating loss during the initial ownership period of the developer.
  - e. Wages, as a percentage of operations, paid to the developer/owner (see Exhibit G). Again, shouldn't the developer/owner receive his return from the rate of return on the utility and the sale of land associated with full development of the property?
  - f. How can Mountain Sewer propose to "credit the connection fees of VEI's 66 lots towards the principal and interest due on the note (see Exhibit G, page 7)?" Where did the connection fee money go? Was it accounted for properly?
  - g. What is going on with the buffet menu of new fees? Is this a strategy of quantity, hoping that a percentage will be thrown out, with more than needed remaining?

Only after the above steps are completed, will the PSC and Mountain Sewer customers be able to confidently calculate a fair rate for service. To this end, we again request that any change in the existing tariff regulating Mountain Sewer be denied until a full audit and investigation can be completed by the Public Service Commission ("PSC") and/or the Utah State Attorney General.

Sincerely,

Jeff Larsen

