

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Mountain Sewer Corporation
for Interim Rate Increase and General Rate
Increase

DOCKET NO. 22-097-01
ORDER APPROVING INTERIM RATES

ISSUED: March 14, 2023

SYNOPSIS

The Public Service Commission (PSC) approves the request of Mountain Sewer Corporation (“MSC”) for an interim rate increase, subject to refund or surcharge following completion of the current general rate case.

On January 31, 2023, MSC filed two applications with supporting testimony of four witnesses seeking (1) an interim rate increase (the “Interim Rates Application”) and (2) a general rate increase (the “Application”). On February 14, 2023, the Division of Public Utilities (DPU) filed comments concluding that the Application was substantially complete consistent with Utah Code Ann. § 54-7-12(2)(b)(ii) and Utah Admin. Code R746-700-50 and -51. On February 22, 2023, DPU filed additional comments recommending the PSC approve the Interim Rates Application (“DPU Response”).

On March 7, 2023, the PSC held a hearing¹ to consider the Interim Rates Application. MSC and DPU appeared and offered live testimony in support of that application. No other party offered written or live testimony or opposed the Interim Rates Application.

I. THE INTERIM RATES APPLICATION

MSC is a sewerage corporation as defined in Utah Code Ann. § 54-2-1, and holds two Certificates of Public Convenience and Necessity (CPCN).² MSC currently serves approximately

¹ Reference to “hearing” in this Order is to the March 7, 2023 hearing and the audio recording of that hearing located at <https://www.youtube.com/watch?v=fmU6u5vYSQY>.

² See CPCN No. 2163 issued on June 11, 1985, and CPCN No. 2602 issued on October 8, 1991.

250 active connections and 100 standby connections near Huntsville, Utah. MSC states its current rates are insufficient to sustain operations, is currently operating at a net loss, and is not collecting or reserving funds for future repairs and replacement. MSC's current and proposed interim rates are as follows:

	Current Rates³	Interim Rates
Connected Customers	\$68.00 monthly	\$86.00 monthly
Standby Customers	\$24.00 monthly	\$46.00 monthly
Single Connection Fee	\$5,000.00	\$1,642.00
Hookup Fee	\$300.00	\$300.00
Turn On/Off Fee	\$100.00	\$100.00
Late Fee	18% per annum	18% per annum

II. TESTIMONY AND COMMENTS

A. MSC Written Testimony.

MSC states that it has not increased rates since 2012 and its revenue is insufficient to (1) pay operation and maintenance (“O&M”) expenses and outstanding obligations, and (2) establish a reserve for capital infrastructure investment.⁴ MSC witness Ray Bowden testifies that MSC has recently expanded its service area to incorporate the Legacy Mountain Estates (“LME”), which includes a 48-lot subdivision and related infrastructure that was built and paid for by LME to provide service to those lots.⁵ These infrastructure assets (“LME Sewer Assets”) will be transferred to MSC and benefit its customers. Mr. Bowden also testifies that MSC's operating costs have increased due to, among other things, the hiring of new employees, payroll increases,

³ See *Mountain Sewer Corporation's Filing to Comply with the Commission's Order Issued on October 30, 2012 in Docket No. 11-097-03*, Docket No. 17-097-T01.

⁴ See Interim Rates Application, at 2 and January 31, 2023 Direct Testimony of Ray Bowden at 3 (“Bowden Direct Test.”).

⁵ See Bowden Direct Test., at 2.

maintenance of aging infrastructure, and needed equipment upgrades.⁶ Mr. Bowden further testifies that MSC has been operating at a loss for the past three years and that he has personally heavily subsidized MSC since taking ownership in 2011.

B. DPU Comments.

DPU comments that it has performed a preliminary review of both the Application and the Interim Rates Application and MSC meets its obligation under Utah Code Ann. § 54-7-12(4) for approval of interim rates.⁷ DPU states that its preliminary review indicates that inflation, MSC's aging infrastructure, and operating cost deficits show the need for an immediate rate increase. DPU states the total inflation rate since MSC's last rate increase in 2012 has been 27.5%, which "alone would account for the need to increase [MSC's] rates."⁸ DPU further states MSC's requested interim rate increase is reasonable and more likely to reflect actual costs than the current rates. DPU concludes that MSC has presented adequate prima facie evidence that the existing rates are inadequate, recommending the PSC approve the interim rate increase, effective March 17, 2023, subject to a more comprehensive review of the Application.

C. Testimony at Hearing.

MSC's witnesses reiterated information submitted in the Interim Rates Application, the Application, and the written testimony. MSC witnesses also addressed and clarified questions concerning, among other things, MSC's outstanding financial obligations and the timeline for the

⁶ See Bowden Direct Test., at 2. See also January 31, 2023 Direct Testimony of William Duncan, at 4 (testifying that upgrades include pumps for the lift stations and a new Supervisory Control and Data Acquisition system ("SCADA")).

⁷ See DPU Response at 2.

⁸ See *id.* at 3.

acquisition of LME Sewer Assets. Specifically, Mr. Bowden testified that he has provided significant capital infusions to MSC for repairs needed to bring MSC up to code. MSC witness Lynn Wood, CPA, described these capital infusions as “necessary to keep the doors open,” noting they were provided without a note or a security pledge.⁹

MSC witness William Duncan testified that MSC’s connection charges have been subsidizing costs that should be covered by monthly charges, noting the proposed rate structure aligns the monthly revenues to cover O&M costs. MSC witness Chad Kramer testified that MSC expects to take possession of the LME Sewer Assets in August 2023.¹⁰ MSC concluded that the interim rate request is necessary, just, reasonable, and in the public interest and asked the PSC to grant the Interim Rates Application.¹¹

DPU witness Joanna Matyjasik testified that MSC’s last rate increase occurred October 30, 2012.¹² Ms. Matyjasik testified that MSC’s proposed interim rate increase is 26.5% over current rates and is justified by the total inflation rate since 2012, the aging infrastructure, and the improvements to the SCADA system.¹³ Ms. Matyjasik concluded that DPU supports the proposed interim rates as just, reasonable, and in the public interest.¹⁴

FINDINGS AND CONCLUSIONS

After a hearing, the PSC may allow an interim rate increase subject to refund or surcharge based on evidence that “establish[es] an adequate prima facie showing that the interim

⁹ Hearing testimony, Lynn Wood at 1:06:00-1:07:00.

¹⁰ Hearing testimony, Chad Kramer at 1:21:00-1:21:45.

¹¹ Hearing testimony, Ray Bowden at 15:25-17:25.

¹² See Docket Nos. 11-097-01, 11-097-02, and 11-097-03, Order issued October 30, 2012.

¹³ Hearing testimony, Joanna Matyjasik at 1:27:27-1:28:21.

¹⁴ *Id.* at 1:25:30-1:26:15.

rate increase or decrease is justified.”¹⁵ In applying this standard, we consider a prima facie showing to be one that is sufficient to support the proposed rate relief until contradicted by other evidence.¹⁶

MSC states that the existing sewer rates and fees are inadequate and the proposed interim rates are necessary for MSC to recover its reasonable operating costs that include payroll expenses, infrastructure maintenance and upgrades, and to establish a capital reserve. DPU’s preliminary review of the Interim Rates Application concludes there is adequate prima facie evidence demonstrating the current rates and fees are inadequate and that the proposed interim rates more likely reflect MSC’s actual costs. At hearing, MSC provided testimony supporting the need for interim rates, including operational losses and the maintenance and upgrade of existing and acquired infrastructure. DPU reiterated its written testimony at hearing and testified that the information provided by MSC during the hearing did not affect its conclusion and recommendation. Specifically, DPU testified that MSC has adequately provided a prima facie showing that the existing rates are inadequate and the interim rates are just, reasonable, and in the public interest and recommends the PSC approve the Interim Rates Application and the proposed interim rate increase.

Based on the Interim Rates Application, including written testimony and testimony at the hearing, DPU’s recommendations and testimony at the hearing, and given no party opposes, we find and conclude that MSC has provided adequate prima facie evidence showing the interim rates are justified and thus approve the Interim Rates Application.

¹⁵ Utah Code Ann. § 54-7-12(4)(a)(iii).

¹⁶ See *Child v. Gonda*, 972 P.2d 425, 432 (Utah 1998) (quoting Black's Law Dictionary, 1190 (6th ed. 1990)).

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ORDER

The Interim Rates Application and the proposed interim rate increase are approved as filed, effective March 17, 2023, subject to refund or surcharge pending completion of our adjudication of the Application.

DATED at Salt Lake City, Utah, March 14, 2023.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#327270

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on March 14, 2023, a true and correct copy of the foregoing was served upon the following as indicated below:

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