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

DOCKET NO. 22-097-01

ORDER APPROVING SETTLEMENT STIPULATION AND ASSOCIATED TARIFF CHANGES

ISSUED: September 25, 2023

BACKGROUND

On January 31, 2023, applicant Mountain Sewer Corporation (“MSC”) filed two applications, supporting testimony, and exhibits 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 a “substantially ... complete filing.”¹ On February 22, 2023, DPU filed additional comments recommending the PSC approve the Interim Rates Application. On March 7, 2023, the PSC held a hearing to consider the Interim Rates Application and issued an Order approving the Interim Rates Application on March 14, 2023, effective March 17, 2023 (“Interim Rates”).² Thus, only MSC’s Application remains to be decided.

In response to the Application, DPU filed the direct testimony and exhibits of Joanna Matyjasik on June 29, 2023. This testimony and exhibits included calculations of, and explanations supporting, DPU’s recommended general rate increase.

¹ DPU Comments at 2 (*citing* Utah Code Ann. § 54-7-12(2)(b)(ii) and Utah Admin. Code R746-700-50 and R746-700-51).

² *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 (the “Interim Rate Order”).

On August 2, 2023, DPU filed an Unopposed Motion to Vacate the Scheduling Order Except for the Hearing and Public Witness Hearing Date (“Motion to Vacate”), which was granted on August 3, 2023. Because of the Motion to Vacate, MSC did not file written testimony specifically in support of the Application but had previously filed such testimony for the purpose of the Interim Rates Application.

On August 15, 2023, DPU filed an Unopposed Motion to Approve Settlement Stipulation and Hold Hearings as Scheduled, which included a contemporaneously filed proposed settlement stipulation (“Settlement”) and proposed tariff sheets for MSC’s tariff number 3 (“Tariff No. 3”). After a series of filings correcting the tariff sheets for Tariff No. 3,³ MSC submitted Third Corrected Attachment A and Third Corrected Attachment B (“Third Corrected Attachments”) on August 24, 2023. By Acknowledgment dated August 29, 2023, the PSC chronicled the history of the various tariff sheet filings for Tariff No. 3 and acknowledged “the parties’ representation that the Third Corrected Tariff Sheets[] represent the final version of MSC’s [T]ariff [No.] 3, that they replace and supersede any proposed tariff sheets previously filed since August 15, 2023, in this docket, and that they embody what is referenced in paragraph 19 of the Settlement Stipulation.”⁴

³ Three sets of corrected attachments containing redlined and clean versions of MSC’s Tariff No. 3 were filed: Corrected Attachment A and B, filed August 17, 2023, attached to the *Division of Public Utilities’ Action Request Response*; Second Corrected Attachments A and B, filed on August 22, 2023; and Third Corrected Attachments A and B, filed August 24, 2023.

⁴ Acknowledgment of Filing Corrected Attachments Substituting them for Original Settlement Stipulation Attachments, August 29, 2023.

On August 23, 2023, the PSC held an evidentiary hearing (“Hearing”) and public witness hearing to consider the Application and the Settlement.

I. THE APPLICATION

MSC is a sewerage corporation as defined in Utah Code Section 54-2-1 and holds two Certificates of Public Convenience and Necessity (CPCN).⁵ MSC currently serves approximately 250 active connections and 100 standby connections near Huntsville, Utah. The Application provides a comparison of the current rates and MSC’s requested rates:

Current Rates		Requested Rates	
Total Monthly Fee (connected customers only)	\$68.00	Total Monthly Fee (connected customers only)	\$98.36
Total Standby Fee equal to Fixed System Fee plus Capital Reserve Fee (unconnected customers only)*	\$24.00	Total Standby Fee equal to Fixed System Fee plus Capital Reserve Fee (unconnected customers only)*	\$55.01
Single Connection Fee	\$5,000	Single Connection Fee	\$1,642
Hookup Fee	\$300	Hookup Fee	\$300
Turn On/Off Fee	\$100	Turn On/Off Fee	\$100
Late Fee	18% per annum	Late Fee	18% per annum

MSC asserts the proposed rate increase is necessary, just, and reasonable. According to MSC, the requested rate increase is needed so that it can “operate at a net gain, meet all current obligations, be self-sustaining, and build capital reserves for

⁵ CPCN No. 2163 issued on June 11, 1985, and CPCN No. 2602 issued on October 8, 1991.

future repairs and replacement of capital facilities.”⁶ MSC represents that its “fees and rates have not increased since 2012.”⁷

II. TESTIMONY

A. MSC Written Testimony.

MSC witness Ray Bowden states that MSC’s current revenue is insufficient to (1) pay operation and maintenance expenses and outstanding obligations, and (2) establish a reserve for capital infrastructure investment.⁸ Mr. Bowden testifies that MSC’s operating costs have increased due to, among other things, the hiring of new employees, payroll increases, maintenance of aging infrastructure, and needed equipment upgrades.⁹ 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 2011.

MSC witnesses William Duncan and Mr. Bowden both testify that MSC’s proposed new rates are just, reasonable, and in the public interest.¹⁰

B. DPU Written Testimony.

DPU filed the direct testimony of Joanna Matyjasik, along with exhibits. This submission includes detailed calculations of, and explanations supporting, DPU’s

⁶ Application, ¶ 7.

⁷ *Id.*, ¶ 6. The Application was filed prior to the Interim Rate Order.

⁸ See January 31, 2023, written direct testimony Ray Bowden at 3 (“Bowden Written Direct Test.”).

⁹ See *id.* at 2. See also, January 31, 2023, written direct testimony of William Duncan at 3-4 (“Duncan Written Direct Test.”).

¹⁰ See Duncan Written Direct Test. at 4; Bowden Written Direct Test. at 3.

recommended rates. DPU's recommended rates are different than MSC's requested rates.

Ms. Matyjasik states that DPU's recommended rates are based on a model that promotes three major goals: (1) the recovery of prudently incurred costs through customer rates, (2) the recovery of prudently incurred costs through prospectively set rates, and (3) customer rates should support a sustainable capital reserve account.¹¹ Ms. Matyjasik states MSC's last rate increase was October 30, 2012.¹² Ms. Matyjasik also states that based on the analysis of MSC's 2020 and 2021 Wastewater Annual Reports, and information gathered through virtual meetings, emails, and phone calls, the DPU "recommended a just and reasonable pricing structure that works within the guidelines set forth by the Public Service Commission Rules and is in the public interest."¹³

Ms. Matyjasik's written testimony also addresses two issues relating to the Interim Rate Order. First, DPU's recommended final rates – relative to the Interim Rates – result in an overcharge for the standby customers and an undercharge of the connected customers during the period of Interim Rates (the "Over/Under Charge Issue"). Second, DPU represents that MSC started billing the Interim Rates beginning March 1, 2023, instead of the Interim Rates Order's effective date of March 17, 2023

¹¹ See June 29, 2023, written direct testimony of Joanna Matyjasik at 3-4 ("Matyjasik Written Direct Test.").

¹² See *id.* at 6.

¹³ *Id.*

(the “Interim Rate Billing Error”). To reconcile these two issues, DPU proposes a refund of \$102.88 for standby customers and a surcharge of \$120.39 for connected customers.¹⁴

C. Settlement Stipulation.

The Settlement states that DPU and MSC engaged in settlement discussions and reached an agreement that led to the Settlement. The Settlement accurately notes that no other party has intervened in this docket. DPU and MSC recommend the PSC approve the Settlement and hold the evidentiary and public witness hearings as scheduled.

The Settlement, among other things, adopts proposed new rates, with monthly base rates of \$106.00 per month for connected customers and \$32.00 per month for standby customers.¹⁵ The Settlement seeks an effective date for the new rates of October 1, 2023.¹⁶ The Settlement also contains fees for single connection, hookup, turn on/off, and late fees.¹⁷ Additionally, the Settlement includes reference to updated MSC Tariff No. 3, stating the tariff sheets are consistent with the proposed rates and other housekeeping items.¹⁸

¹⁴ See *id.* at 11-12.

¹⁵ See Settlement at 3, ¶ 13.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See *id.* at 5, ¶ 19.

The rates and fees in the Settlement are consistent with DPU's recommended rates as outlined in the June 29, 2023, written direct testimony of Ms. Matyjasik. A summary of the rates and fees in the Settlement are:

	Rates
Connected Customers	\$106.00 monthly
Standby Customers	\$32.00 monthly
Single Connection Fee	\$1,642.00
Hookup Fee	\$300.00
Turn On/Off Fee	\$100.00
Late Fee	18% per annum

The Settlement also addresses the Over/Under Charge Issue and Interim Rate Billing Error, reflecting the parties' agreement on how those issues will be addressed.¹⁹ This resolution includes a credit of \$102.88 for each standby customer "in the first billing cycle following the effective date of the Commission's order[]" on the Application,²⁰ and billing connected customers \$120.39, which "shall be payable over three months if requested by the customer."²¹

D. Testimony at Hearing.

MSC witness William Duncan affirmed that MSC's last application for a rate increase was October 2012.²² Mr. Duncan testified that after reviewing MSC rates he determined the rates were not covering the cost of service and, based on his experience, when a company does not cover its costs, over time the service

¹⁹ See *id.* at 4-5, ¶¶ 14-18.

²⁰ *Id.*, ¶ 18.

²¹ *Id.* at 4, ¶ 17.

²² See August 23, 2023, hearing transcript at 10:1-4 ("Hr'g Tr.").

degenerates because needed maintenance is put off and eventually the company has to do something drastic, such as levying special assessments.²³ Mr. Duncan further testified that the rates proposed by DPU were very close to the rates requested in the Application and therefore MSC chose to adopt DPU's proposed rates and enter into a Settlement.²⁴

Mr. Duncan represented that the new rates agreed upon in the Settlement provide what MSC needs to be financially viable,²⁵ including, among other things, establishing and maintaining a reserve fund.²⁶ Mr. Duncan concludes the Settlement's proposed rates are just, the proposed rules in Tariff No. 3 are reasonable, and the public interest²⁷ is met by providing safe and reliable service.

MSC witness Ray Bowden testified about the billing mechanics concerning the Over/Under Charge Issue and the Interim Rate Billing Error. Specifically, Mr. Bowden testified that MSC will send a written notice to its connected customers with their monthly bill explaining that the customer can choose to pay the additional charge of \$120.39 as a one-time payment or over a three-month period, but in any event, it must be paid in full within three months.²⁸

²³ See *id.*, at 10:15-25 and 11:1.

²⁴ See *id.*, at 9:12-25.

²⁵ See *id.*, at 9:19-24.

²⁶ See *id.*, at 12:10-12.

²⁷ See *id.*, 12:16-25 and 13:1-10. Mr. Duncan's testimony referenced "Tariff No. 4," but it was later corrected to "Tariff No. 3." See *id.* at 16:15-25.

²⁸ See Hr'g Tr. at 40-43. Mr. Bowden's testimony thus modified on the record a portion of paragraph 17 of the Settlement resulting in customers not having to "request" to pay this additional charge over a three-month period.

DPU did not cross-examine Mr. Duncan or Mr. Bowden. MSC moved for admission of its prefiled written testimony that was used in the Interim Rates Application and used for purposes of the Application. That motion was unopposed and was granted.

DPU witness, Joanna Matyjasik adopted her written direct testimony and exhibits 2.1 through 2.10 with no changes or corrections.²⁹ Ms. Matyjasik offered a summary of her written direct testimony.³⁰ In response to a question about a column heading reading “70/30” in Exhibit 2.2, Ms. Matyjasik clarified that although that column heading does not track through the formulas and results in Exhibit 2.2,³¹ DPU’s proposed “rates do cover all costs and ... provide money for a capital reserve account.” Ms. Matyjasik further testified that “[a]s a settlement, the contents are a compromise and have been agreed to by all parties. As a whole, and consistent with Utah Code Section 54-7-1, ... the rates [in the Settlement and the terms of the Settlement itself] are just and reasonable and in the public interest.”³²

MSC did not cross-examine Ms. Matyjasik. DPU moved, subject to Ms. Matyjasik’s clarification, for the admission of Ms. Matyjasik’s June 29, 2023, written direct testimony and exhibits 2.1 through 2.10. That motion was unopposed and was granted.

²⁹ See *id.*, at 21:6-20.

³⁰ See *id.*, at 31:10-36:15.

³¹ See *id.*, at 22:2-22 and 26:16-25.

³² *Id.*, at 26:21-24 and 27:3-8. See also *id.*, at 31:3-9.

A public witness hearing was noticed for August 23, 2023, beginning at 5:30 PM, allowing individuals present before 6:00 PM to address the Application and Settlement. This hearing occurred as noticed and no members of the public appeared.

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

Under the Settlement, the parties agreed that effective October 1, 2023, and subject to the PSC's approval, MSC's rates and terms of service would be those provided in the Settlement and the Third Corrected Attachments. Utah Code Ann. Section 54-7-1 encourages settlements of matters before the PSC at any stage of the proceedings. Under Utah Code Ann. Section 54-7-1(2)(a), the PSC may approve a settlement proposal if it finds the settlement proposal to be in the public interest. In addition, the PSC may adopt a settlement stipulation if the PSC finds, based on the evidence of record, that the proposal is just and reasonable in result.³³

The evidence supports a finding that MSC's existing sewer rates and fees are inadequate. The evidence further supports findings that the proposed new rates and fees are necessary for MSC to recover its prudently incurred operating costs, including administrative expenses, infrastructure maintenance and upgrades, and to establish a capital reserve.

Based on the Application, the supporting written testimony of MSC and DPU, DPU's recommendations, the testimony at the evidentiary hearing, and given no party

³³ See Utah Code Ann. § 54-7-1(3)(d)(i)(A)-(B).

opposes, we conclude that MSC has provided adequate evidence to support our approval of a rate increase using the rates as stated in the Settlement with the Third Corrected Attachments and further conclude those rates are in the public interest and are just and reasonable in result.

ORDER

For the foregoing reasons, we approve the Settlement, filed August 15, 2023, as modified on the record at the Hearing, and the Third Corrected Attachments filed August 24, 2023. We thus approve the proposed rate increase as reflected in the Settlement and the Third Corrected Attachments, effective October 1, 2023.

DATED at Salt Lake City, Utah, September 25, 2023.

/s/ John E. Delaney
Administrative Law Judge

Approved and confirmed September 25, 2023 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#329972

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 September 25, 2023, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Jennifer Bowen-Crockett (jbcrockett@shutah.law)
J. Craig Smith (jcsmith@shutah.law)
SMITH HARTVIGSEN, PLLC
Attorneys for Mountain Sewer Corporation

Patricia Schmid (pschmid@agutah.gov)
Patrick Grecu (pgrecu@agutah.gov)
Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Administrative Assistant