

SENATE BILL 471

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on Local Government.
February 22, 1979	On motion, ordered printed and placed on second reading. Motion failed.
April 20, 1979	Died in Committee.

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*Amended* BILL NO. *471*  
*Blaylock South Down Rodie & Brown*  
*Story*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATING TO MUNICIPAL WATER AND SEWER RATES; REMOVING MUNICIPALLY OWNED WATER AND SEWER SYSTEMS FROM THE DEFINITION OF "PUBLIC UTILITY"; REQUIRING MUNICIPALLY OWNED WATER AND SEWER SYSTEMS TO FILE RATE CHANGES AND ANNUAL FINANCIAL REPORTS WITH THE PUBLIC SERVICE COMMISSION; ESTABLISHING A MUNICIPAL WATER AND SEWER RATES APPEALS PROCEDURE; AMENDING SECTIONS 7-13-4311 THROUGH 7-13-4313, AND 69-3-101, MCA; AND REPEALING SECTIONS 7-13-4208 AND 7-13-4310, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
Section 1. Section 7-13-4311, MCA, is amended to read:  
"7-13-4311. Authorization to furnish water and sewer services to industrial consumers. (1) Subject to the provisions of subsection (2), the city or town council of any city or town within Montana that owns and operates a municipal water system and/or a municipal sewage system to furnish water and/or sewage services to the inhabitants of such city or town ~~as a public utility~~ shall, in addition to all other powers, have power to furnish water from such water system and sewage services from such sewage system:

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(a) to any person, factory, or other industry located within the corporate limits of such city or town; or  
(b) to any person, factory, or other industry located outside the corporate limits of such city or town.  
(2) (a) The services authorized by subsection (1) shall be furnished at reasonable rates. Upon the increase or decrease thereof, the rates shall be filed by the city or town council ~~and approved by~~ with the public service commission.  
(b) Delivery of water and delivery of sewage services by any such city or town to or for the use of any person, factory, or other industry located outside the corporate limits of such city or town shall be made within or at the boundary line of the corporate limits of such city or town or from any existing waterline or sewerline of such city or town located outside of the corporate limits of such city or town, except as hereinafter provided."  
Section 2. Section 7-13-4312, MCA, is amended to read:  
"7-13-4312. Authorization to furnish water and sewer services to persons located outside municipality. The city council of any city within Montana that owns and operates a municipal water system and/or a municipal sewer system to furnish water and sewer services to the inhabitants of such city ~~as a public utility~~ shall, in addition to all other powers, have power to furnish water from such water system

1 and sewage services from such sewer system to the  
 2 inhabitants or to any person, factory, industry, or producer  
 3 of farm or other products located outside of the corporate  
 4 limits of such city at reasonable rates. Upon the increase  
 5 or decrease thereof, the rates shall be filed by the city or  
 6 town council ~~and approved when otherwise required by~~  
 7 ~~statute~~ by with the public service commission. Such city  
 8 council is further empowered to make collections for  
 9 furnishing water and sewer services in the same manner as  
 10 collections are made within the corporate limits."

11 Section 3. Section 7-13-4313, MCA, is amended to read:  
 12 "7-13-4313. Illegal use of water or sewer system. Any  
 13 person, firm, or corporation residing either inside or  
 14 outside of the corporate limits of a city owning a municipal  
 15 water system and/or a municipal sewer system which furnishes  
 16 water or sewer services ~~as a public utility~~ who shall  
 17 willfully turn on the waterline or sewerline after the same  
 18 shall have been shut off by or under the direction of the  
 19 city for nonpayment of water charges or sewer charges or who  
 20 shall unlawfully take water from such water system or shall  
 21 unlawfully make use of such sewer system shall be guilty of  
 22 a misdemeanor."

23 Section 4. Section 69-3-101, MCA, is amended to read:  
 24 "69-3-101. Meaning of term public utility. (1) The  
 25 term "public utility", within the meaning of this chapter,

1 shall embrace every corporation, both public and private,  
 2 company, individual, association of individuals, their  
 3 lessees, trustees, or receivers appointed by any court  
 4 whatsoever, that now or hereafter may own, operate, or  
 5 control any plant or equipment or any part of a plant or  
 6 equipment within the state for the production, delivery, or  
 7 furnishing for or to other persons, firms, associations, or  
 8 corporations, private or municipal:

9 ~~(1)(a)~~ heat;  
 10 ~~(2)(b)~~ street-railway service;  
 11 ~~(3)(c)~~ light;  
 12 ~~(4)(d)~~ power in any form or by any agency;  
 13 ~~(5)(e)~~ water for business, manufacturing, household  
 14 use, or sewerage service, whether within the limits of  
 15 municipalities, towns, and villages or elsewhere;  
 16 ~~(6)(f)~~ telegraph or telephone service.

17 (2) The term "public utility" does not include any  
 18 municipally owned water system that provides water or  
 19 business, manufacturing, household use, or sewerage service,  
 20 whether located within or outside the corporate limits of a  
 21 municipality."

22 NEW SECTION. Section 5. Annual report to public  
 23 service commission. The account of a municipally owned sewer  
 24 and/or water system shall be closed annually on either June  
 25 30 or December 31 and a balance sheet taken therefrom. A

1 full annual report of the business of the system shall be  
 2 made to the public service commission not later than the  
 3 15th day of the following September when the account is  
 4 closed on June 30 and not later than March 15 of the  
 5 following year when the account is closed on December 31.  
 6 The report shall be in the form prescribed by the commission  
 7 and shall contain all information considered necessary by  
 8 the commission for the proper performance of its duties.  
 9 The commission may, at any time, call for information  
 10 omitted from the report or not provided for therein  
 11 whenever, in the judgment of the commission, the information  
 12 is necessary.

13 NEW SECTION. Section 6. Challenge of municipally  
 14 owned water and sewer rates -- procedure. Twenty-five users  
 15 or 15% of the users of a municipally owned water and/or  
 16 sewer system, whichever is greater, may file a complaint  
 17 with the public service commission to the effect that  
 18 rentals, rates, tolls, or charges collected for the services  
 19 afforded by a municipally owned water and/or sewer system  
 20 are unreasonable or unjustly discriminatory. The public  
 21 service commission shall, upon public hearing, file its  
 22 findings and determination, stating therein in what respects,  
 23 if any, the rentals, rates, tolls, or charges are  
 24 unreasonable or unjustly discriminatory. The affected  
 25 municipality shall readjust its rentals, rates, tolls, or

1 charges so as to remove any unreasonable or unjustly  
 2 discriminatory features found by the public service  
 3 commission.

4 NEW SECTION. Section 7. Filing of protest -- when  
 5 effective. When the governing body of a municipality  
 6 officially establishes new water and/or sewer rates, a  
 7 petition protesting the rate change must be filed with the  
 8 public service commission within 30 days of the official  
 9 action. A second copy of the petition shall be filed with  
 10 the city or town clerk, and the clerk shall attest to the  
 11 authenticity of the signatures thereon. Upon the proper  
 12 filing of the petition, the rate change shall be stayed  
 13 until the public service commission makes its determination  
 14 of the fairness of the rates.

15 NEW SECTION. Section 8. Information necessary for  
 16 rate appeal hearing -- commission's right to examine books,  
 17 records, and other memoranda. Whenever under [section 6]  
 18 sufficient electors request that a public hearing be held  
 19 before the public service commission, the municipally owned  
 20 sewer and/or water system shall submit to the commission any  
 21 information the commission may, by rule or data request,  
 22 require. Any commissioner or any person authorized by the  
 23 commission may examine the books, accounts, records, and  
 24 papers of the system to determine their correctness and  
 25 whether they are being kept in accordance with the

1 commission's rules.

2 NEW SECTION. Section 9. Notice and hearing on  
3 proposed change. (1) Before it may approve any change  
4 increasing the rate or rates for water and/or sewer service  
5 in a schedule generally affecting consumers in the  
6 municipality's service area or before any change may become  
7 effective, the governing body of the municipality shall  
8 publish a notice of the proposed change, conforming to the  
9 requirements of 2-4-601 in one or more newspapers published  
10 and of general circulation within the area affected by the  
11 proposed change. This notice shall announce a hearing on  
12 the proposed change and shall inform interested persons how  
13 they may petition the governing body to become parties to  
14 the hearing.

15 (2) The governing body of the municipality shall  
16 proceed to conduct the hearing under the Montana  
17 Administrative Procedure Act. The final decision of the  
18 governing body in any matter decided after a hearing  
19 conducted pursuant to this section shall conform to the  
20 requirements of a decision in a contested case under the  
21 Montana Administrative Procedure Act.

22 Section 10. Codification. (1) Sections 5 through 9 of  
23 this act are intended to be codified as an integral part of  
24 Title 7, chapter 13, part 43, and the provisions of that  
25 part apply to sections 5 through 9.

1 (2) If sections 5 through 9 of this act are not  
2 codified in Title 7, chapter 13, part 43, the code  
3 commissioner shall add to the MCA, if necessary, statutory  
4 language to convey the intent of this section.

5 Section 11. Repealer. Sections 7-13-4209 and  
6 7-13-4310, MCA, are repealed.

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