

16 October, 2020

Important Developments in the MPSC Rate Case

There are several important developments in the MPSC rate case. This information is available publicly on the SCC's website (link below), but we thought area residents would benefit from a synopsis.

Several parties have recently filed procedural motions; these include a residential customer and the newly-formed Massanutten Water and Sewer Authority (Rockingham County), which sought to intervene in the case. In the interest of everyone having an opportunity to be heard, we filed responses supporting the resident's and Authority's motions. MPSC was opposed to both.

We're pleased to report that the hearing examiner granted the request of the residential customer to file testimony and exhibits late, agreeing with arguments we submitted in support of his motion. She wrote (and for understanding, please note that Massanutten Resort and the Great Eastern entities joined with it are referred to as the Massanutten Resort Customers or "MRC"):

"I agree with MRC that all Residential Respondents should be afforded the opportunity to file pre-filed testimony and exhibits. Specifically, I agree with MRC that a new procedural schedule should be established that would allow the Residential Respondents to file testimony and exhibits and would afford other participants, including MRC, the opportunity to review and conduct discovery on such testimony and exhibits and to prepare oral sur-rebuttal testimony to be presented at the evidentiary hearing. Therefore, I grant [the motion] to file testimony and exhibits out-of-time and further find that all Residential Respondents should be permitted to file testimony and exhibits on or before the date established herein"

With regard to the Water and Sewer Authority, she wrote:

"MRC supported the Authority's Motion and advised that '[s]trict procedural requirements and deadlines should yield to a full and fair airing of the issues.' MRC highlighted the importance of giving all parties an opportunity to react to the news that the water and sewer systems and the rates charged for the services provided by them may soon be owned by an entity that is not subject to the Commission's ratemaking jurisdiction. MRC maintained its positions that all the parties should have a fair opportunity to address all of the issues that the Commission will be considering in setting MPSC's rates and that a pre-hearing conference should be scheduled to develop a new procedural schedule."

Additionally, she denied MPSC's motion to disallow the SCC's staff from advancing an argument that MPSC's currently authorized Return on Equity ("ROE") should be reduced from 9.25% to 8.50%. The Commission's staff, in pre-filed testimony, stated that capital market costs have experienced a material decline since the 2014 and 2017 rate cases in which the 9.25% ROE was authorized (and reused this expedited case). MPSC moved to strike that testimony or allow it to ask for a higher ROE, arguing that if Staff could request a lower ROE than the ROE used in

the last case, then MPSC should be able to propose a higher ROE than the one used in the last case. But, as we and the SCC requested, the Hearing Examiner denied that motion and limited MPSC's ROE rebuttal to testimony in support of the 9.25% ROE from the last case.

The Examiner set a new schedule for the case going forward, as follows:

- Nov 10: Deadline for the Residential Respondents to pre-file or supplement their pre-filed testimony and exhibits.
- Dec 8: Deadline for MPSC to file ROE testimony and any other rebuttal
- Dec 30: Parties exchange all documents that were not pre-filed that may be used at the hearing as evidence, demonstrative exhibits or for cross-examination.
- Jan 7-8: Web-Based Evidentiary Hearing.

You can find all documents related to the case here:

<https://scc.virginia.gov/docketsearch#caseDocs/140654>

We believe this is good news for everyone fighting the rate increase application – homeowners, Massanutten Resort and its owners and guests alike. We hope you agree. More importantly, we hope residents will begin to understand that while we may not agree with everything our neighbors say, we want all voices be heard.

With that in mind, we hope you'll be open to our correction of one significant inaccuracy in the testimonies of some residents, who have suggested that the Resort was ultimately responsible for the roughly \$3 million in improvements that MPSC made to its wastewater treatment plant (WWTP) in 2017.

That work is referred to by MPSC as its "Biological Nutrient Removal" (BNR) project. It was necessary to comply with a new 2016 Virginia DEQ permit requiring reduction of total phosphorus and nitrogen from WWTP discharge into Quail Run, and to settle an environmental lawsuit making even greater demands.

The WWTP had not previously been required to limit its discharge of total nitrogen and total phosphorus because MPSC had been permitted to achieve compliance by purchasing nutrient credits. But the credit program was ended due to a state mandate, and the need to settle the lawsuit triggered an acceleration of the BNR project. In the 2017 rate case, the Resort opposed paying early for a project that could have been deferred until 2020. We weren't consulted and didn't know the details of the situation until the work was complete and the rate case was filed.

Because MPSC had already paid for that project and the SCC approved its justification, today we – like homeowners – have been paying for it through sewer rates three years earlier than the permit requirements had dictated. To the best of our knowledge, this modification didn't expand WWTP capacity, and we certainly didn't need or request that, the project itself, or its

acceleration – but we do understand that it was required by 2020. For more detail, go to– <https://scc.virginia.gov/docketsearch/DOCS/3g1%2401!.PDF> –will take you to 2017 testimony by John Norton, MPSC’s Director of Capital Planning and Asset Management that explains the background of the BNR project.

Read that testimony and we believe you’ll understand that Massanutten Resort and Great Eastern had nothing to do with accelerating the costly 2017 BNP project expense – and that we, like you, are paying for it today.