



April 1, 2013

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Rockville City Council
c/o City Administrator Rena Weber
P.O. Box 93
Rockville, MN 56369

VIA EMAIL AND U.S. MAIL

**Re: City of Rockville Utility System Base Rate and User Rate Fees
Our File No. 16642.005**

Dear Rockville City Council:

I have been forwarded information, including multiple correspondences between the City and several residents, regarding rates and charges for the City sewer and water utilities. As the city attorney, our office has been asked to provide an opinion on the rate and charge structure.

The City of Rockville's utility system rate and charge schedule is acceptable. It is not arbitrary or capricious, nor does it establish inequitable or unjust rates. Various mathematical analyses showing scenarios in which different users might have different average utility rates may be accurate; however, these differences are both acceptable and to be expected with any rate system. As noted by the Minnesota Court of Appeals in Daryani v. Rich Prairie Sewer and Water District,

It is understood that perfect equity in establishing a rate system is not expected, nor can quality be measured with mathematical precision. Instead, only a practical basis must be used in establishing a rate system, and apportionment of utility rates among different classes of users may only be roughly equal. (See Daryani, 4, Court of Appeals of Minnesota (Minn.2004).

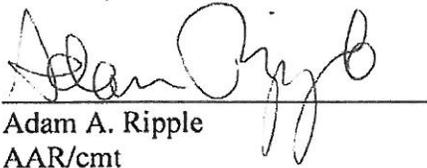
Furthermore, the decision to charge a Base Rate on a per-unit basis, regardless of whether each unit contains a meter, is acceptable and widely used throughout Minnesota. State law provides the City Council with the authority to establish charges based on classification of the premises served, consumption, or any combination or other equitable basis. See Minn. Stat. 444.075 Subd. 3a. The alternative to the existing structure could be to require owners of multi-unit dwellings to install meters in every unit at their own expense. The City, however, appears to have chosen to

spare owners of pre-existing multi-unit dwellings this expense and instead charge a reasonable Base Rate on a per-unit basis. Again, this method is used by communities throughout Minnesota, the legality of which has been affirmed by Minnesota courts and the legislature.

Finally, Minnesota courts will uphold a municipality's rate system unless it is shown by clear and convincing evidence to be in excess of statutory authority or results in unjust, unreasonable, or inequitable rates. *See City of Moorhead v. Minn. Pub. Util. Comm'n*, 343 N.W.2d 843, 846 (Minn.1984). As explained above, the City's system is within the bounds of reasonableness as determined by Minnesota courts. There will always be certain users who perceive unbalanced benefit. If any imbalance in Rockville's system exists, it appears to be so negligible that it is likely not worth the City's time, money, and resources to create, adopt, and implement a new rate system. The City's system is reasonable, fair and equitable as required by Minnesota law.

In conclusion, based on the information provided, we are satisfied that the City has created a rate system that responsibly pays for the establishment, operation, maintenance, depreciation, improvement, enlargement, and extension of the Rockville sewer and water system for the benefit of its citizens. The system is wholly in compliance with Minnesota law. We hope this letter settles and satisfies any lingering concerns.

Sincerely,



Adam A. Ripple
AAR/cmt