

PSC agrees to hear case between City of Kaukauna and Heart of the Valley Metropolitan Sewerage District

Compiled by Brian Roebke
Editor

The Public Service Commission of Wisconsin has agreed to hear a complaint filed by the City of Kaukauna against the Heart of the Valley Metropolitan Sewerage District concerning the city's costs related to the interceptor improvement project.

The district is planning a new interceptor improvement project to extend the life of its interceptor so it can continue to serve the district and its municipal customers from Kaukauna, Little Chute, Combined Locks, Kimberly, and Darboy for an estimated 50 years without major upgrades.

Only a small portion of the proposed interceptor improvement project will provide service to Kaukauna.

At a meeting held March 2, 2021, the HOVMSD commission voted 4-1 to pay the debt service for the interceptor improvement project through HOVMSD's volumetric user charge.

Each municipality in the system has one representative on the commission. Commissioners from Little Chute, Combined Locks, Kimberly, and Darboy voted in favor of the motion, with the Kaukauna representative dissenting.

Visu was the apparent low, most responsive bidder at \$18,148,027.

If project costs are allocated on a volumetric basis, the approximate percentage share of costs for HOVMSD's interceptor improvement project that would be borne by each municipal customer based on 2022 flow data would be:

Kaukauna 35.8 percent
Combined Locks 5.9 percent
Little Chute 35.0 percent
Kimberly 8.9 percent
Darboy Sanitary District 14.4 percent

Under HOVMSD's volumetric user charge, Kaukauna would bear \$7.688 million of HOVMSD's initial cost estimate for the interceptor project, which was \$21.475 million.

The HOVMSD was formed in 1974 to provide wastewater treatment services to the City of Kaukauna and the Villages of Kimberly, Little Chute, and Combined Locks and was later expanded to include the Darboy Sanitary District.

After HOVMSD was formed, it purchased Kaukauna's existing wastewater treatment plant and expanded and improved that wastewater treatment plant. In addition, HOVMSD constructed a wastewater interceptor to transport wastewater flow from its municipal customers to HOVMSD's wastewater treatment plant.

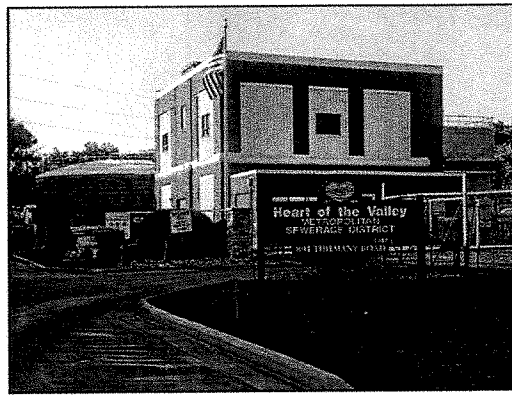
The interceptor is 5.5 miles long and runs along, in and across the Fox River westerly from HOVMSD's wastewater treatment plant in Kaukauna to near the Community Bridge between Kimberly and Little Chute.

Kaukauna's wastewater collection system is connected to HOVMSD's interceptor at three locations, with the furthest meter station located just west of the Laws Street Bridge by the government dam on the Fox River.

More than 25 percent of Kaukauna's wastewater flow is discharged directly to HOVMSD's wastewater treatment plant and does not enter HOVMSD's interceptor at all.

All of the wastewater flow from Little Chute, Kimberly, Combined Locks, and Darboy flows through the interceptor.

The HOVMSD's interceptor was originally constructed between 1975 and 1979. The commission allocated



Brian Roebke photo

The City of Kaukauna is disputing the Heart of the Valley Metropolitan Sewerage District's method of determining the cost distribution related to the interceptor improvement project.

capital costs for the initial construction of its interceptor to its municipal customers based on the "reach" method, where the HOVMSD divided the interceptor system into geographic sections or "reaches" and determined the total construction cost of each reach.

HOVMSD then allocated the cost of each reach to the municipalities that discharged wastewater through that particular reach based on the municipalities' anticipated design wastewater flows as estimated for the year 2025.

In 1979, Combined Locks, Little Chute and Kimberly filed a complaint with the commission alleging that HOVMSD's use of the "reach" method to allocate capital costs for the construction of HOVMSD's interceptor was unreasonable but the Commission concluded that the "reach" method using design flows for the year 2025 was a reasonable method for allocating interceptor costs attributable to the municipal customers because it closely reflects the costs of providing service in that the charges are based on only the portions of the interceptor system used by each municipality.

The commission determined, however, that capital costs for the interceptor's excess capacity attributable to potential future customers, and not to current municipal customers, could not be allocated based on the reach method but rather had to be allocated to current municipal customers on the basis of a uniform volume charge.

After the commission's 1980 order, the percentage of capital costs for the construction of HOVMSD's interceptor attributable to each of the four original municipalities was:

Kaukauna 11.4 percent

Combined Locks 14.3 percent
Little Chute 31.6 percent
Kimberly 42.6

In 2005 HOVMSD constructed improvements to its interceptor which included a new 30-inch siphon across the Fox River necessary to transport wastewater flows from two of its municipal customers, the Village of Combined Locks and the Darboy Sanitary District.

Pursuant to a 2005, agreement with Combined Locks and Darboy Sanitary District, HOVMSD assigned costs for the 2005 interceptor improvements to Combined Locks and Darboy Sanitary District in a manner which reflected their use of the 2005 interceptor improvement project.

The cost share per that agreement was:

Combined Locks 16.07 percent
Darboy Sanitary District 69 percent
HOVMSD 14.93 percent

Due to Kaukauna's significant concerns about the financial impact to its ratepayers from HOVMSD's interceptor project, Kaukauna's legal counsel retained William Stannard, P.E. of Raftelis to provide expert opinions related to HOVMSD's proposed methodology for allocating its interceptor project costs. On July 12, 2022, Stannard issued his Report and Opinions concluding that "HOVMSD's revised methodology for allocating the capital costs related to the major interceptor rehabilitation project" based on HOVMSD's volumetric user charge "will result in an unreasonable allocation of costs to the municipal customers and charges which are unjustly discriminatory."

On Aug. 25, 2022, representatives of HOVMSD and Kaukauna met but reached no resolution on the

allocation of cost. Kaukauna's wastewater does not flow through approximately 80 percent of HOVMSD's interceptor.

Under HOVMSD's adopted volumetric method for allocating its interceptor project costs, Kaukauna would be charged for approximately 36 percent of the total cost of HOVMSD's interceptor project even though it uses only a small portion of HOVMSD's interceptor.

The City of Kaukauna requests the commission:

Investigate HOVMSD's rates, rules and practices that relate to its provision of transmission service and its allocation and recovery of interceptor project costs;

Hold a hearing to determine whether HOVMSD's rates, rules and practices related to its provision of transmission service and its allocation and recovery of interceptor project costs are unreasonable and/or unjustly discriminatory;

Find that HOVMSD's rates, rules

and practices that relate to its provision of transmission service and its allocation and recovery of interceptor project costs are unreasonable and unjustly discriminatory in violation of Wis. Stat. § 66.0821;

Determine and fix reasonable, non-discriminatory rates as authorized by Wis. Stat. § 66.0821(5); and Award such other relief as is just and equitable.

The commission opened this docket and issued a Notice of Investigation on June 1 and the commission determined that there does appear to be sufficient cause for the complaint to proceed with a hearing on all counts, and directed the Division of Water Utility Regulation and Analysis to draft a Notice of Proceeding for signature by the Secretary of the Commission.

Direct questions about this docket to the commission's case coordinator, Stephen Kemna, at 608-266-3768 or Stephen.Kemna@wisconsin.gov.