

Service Date: January 4, 1980

FINDINGS OF FACT AND FINAL ORDER NO. 4598

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
the Montana Power Company for) DOC K ET NO. 6706
authority to establish an unreflec-) ORDER NO. 4598
ted gas cost tracking procedure.)

APPEARANCES

FOR THE APPLICANT:

MARK A. CLARK, 40 E. Broadway, Butte, Montana 59701, appearing on behalf of
The Montana Power Company, Applicant.

FOR THE INTERVENORS:

J. A. ROBISCHON, Attorney at Law, 1341 Harrison Avenue, Butte, Montana
59601, appearing on behalf of Intervenor. The Anaconda Company

C. W. LEAPHART, JR., Attorney at Law, 1 North Last Chance Gulch, Helena,
Montana 59601, appearing or, behalf Intervenor of Champion - International

RICH GALLAGHER, Attorney at Law, P.O. Box 1645, Great Falls, Montana 59403,
appearing on behalf of Great Falls Gas Company, Intervenor.

FOR THE MONTANA CONSUMER COUNSEL:

JAMES C. PAINE, 34 West 6th Avenue, Helena, Montana 59601.

FOR THE BOARD:

EILEEN E. SHORE, Staff Attorney
DAN ELLIOTT, Administrator, Utility Division

BEFORE:

GORDON E. BOLLINGER, Chairman
CLYDE JARVIS, Commissioner
THOMAS J. SCHNEIDER, Commissioner
JAMES R. SHEA, Commissioner
GEORGE TURMAN, Commissioner

FINDINGS OF FACT

1. The Montana Power Company (MPC or Applicant) is a public utility furnishing

electric and gas service to consumers in the State of Montana.

2. On August 13, 1979, MPC applied for authority to utilize certain accounts and accounting methods as the basis for consideration of future natural gas rate adjustments.

3. On September 19, 1979, a notice of public hearing was issued.

4. On October 30, 1979, pursuant to the notice, a hearing was conducted at the Commission offices at 1227 11th Avenue, Helena, Montana.

5. At the hearing, the Commission heard the testimony and cross-examination of two witnesses on behalf of MPC and admitted into evidence four exhibits:

Witnesses

Jack Heidt, MPC
Frank Woy, MPC

Exhibits

Exhibit A, Anaconda Co.
Rate Schedule DAG-79, MPC
Rate Schedule Rate DAG-79, MPC
Testimony of Frank Woy, MPC

6. The Applicant proposes two rate schedules: DAG-79 explains accumulation of amounts in Account 191, Unreflected Gas Supply Costs and in Account 2805.1, Gas Supply Cost Adjustment. It sets up a deferral for accounting purposes made up of the difference between gas costs incurred and gas costs reflected in rates. Rate DAG-79 explains the meaning of these accounts in the context of rate making. It tells how the deferral is to be reflected in rates -- basically by amortizing it in a manner bearing resemblance to that done with other deferrals currently accounted for.

7. Champion-International's attorney objects to a procedure which considers unreflected gas costs as the basis for prospective rates on the grounds that it constitutes retroactive rate making.

Attorney Leaphart: "So you are taking past gas costs and applying them to be paid out in the future to extinguish the account, is that not correct?"

Witness Heidt: "We are taking unreflected gas costs to extinguish the account, and I don't wish to argue semantics or retroactive as you see them as opposed to conditions that I see retroactive rate making. " (Transcript p. 49)

8. The deferred gas cost balance, as defined in the rate making formula or tariff, is based on costs in a preceding period. This does not change the effect of the formula, however, of providing a method to calculate a current change rather than to exact a precise recovery of past expenses. Hence, the terminology "unreflected" is used by Mr. Heidt, rather than unrecovered. The same principle holds true for rate making generally. When a rate request is filed with the Commission because of changing overall expenses, changing market, etc., the request is usually based on a test period. The income statements and balance sheets represented for this year, and based on their results the Commission decides what shall constitute just and reasonable rates. The rates, however, are not set to recover the costs incurred in the test year, but rather test year expenses are used as estimates of expenses expected to occur during the time frame the newly approved rates will be in effect. The purpose of the rate making formula or tariff is not to recover gas costs, but rather the purpose is to point out changes in gas costs so that they may be reflected in prospective rates. It is with this in mind that the Commission accepts Rate DAG-79.

9. The Commission also accepts DAG-79. It is acknowledged that because an unrecovered gas cost balance is computed for rate making does not imply that it need be accounted for in the financial statements. However, in doing so, a better matching of changes in gas costs with gas adjustment revenues is provided, and thus a better definition of accounting net income. For example, earnings are understated in periods of rising gas costs if the balance is not accounted for in the financial statements. To the extent that such improvements in reported net income will assist the Applicant in sales of its debt and equity securities, treatment of a gas balance as a deferral for accounting purposes is in the interest and to the benefit of MPC's ratepayers and investors. DAG-79 page 2 of 2 states: "The purpose of this schedule is to permit the income statement to reflect on a current basis Total Gas Cost Revenues equal to gas costs charged. "

10. The Applicant has expressed a preference that the accounts be analyzed yearly for the period August 1st to July 31st. (Transcript p. 12, 13). The Commission finds this acceptable. A hearing to analyze these accounts may also be held on the Commission's own motion.

11. Any hearing held to analyze these accounts will be comprehensive in nature, as the Commission is committed to thorough inquiry into all rate applications. MPC should be prepared to isolate differences due solely to a changing gas mix, as well as those due to changing gas prices. MPC has recognized on pages 1 and 2 of its reply brief "the Commission's authority to disallow amortization of balances produced by unjustified departures from the contemplated mix. "

12. The Applicant shall file monthly reports with the Commission detailing amounts accounted for under DA(-79 and shall itemize the amounts arising from changing gas mix and gas price.

13. The Applicant testified that approval of this application "would reduce the risk of engaging in the gas business. " The Commission has no other testimony before it in this regard, but will consider such beliefs in future rate proceedings.

14. The Commission finds current monthly industrial tracking procedures to be unaffected by this procedure. The following testimony of Mr. Heidt demonstrates this:

"Q. Please describe the relationship of the proposal in this proceeding to existing industrial contract gas cost adjustment provisions and to the gas cost tracking procedure pending in Phase 2 of Docket 6618.

A. The request made in the petition in this docket is not dependent on either gas cost tracking or industrial rate adjustments. Existing industrial contract gas cost adjustments and approval of the Company's request for a total gas cost tracking procedure (pending in Phase 2 of Docket 6618) will both serve to minimize the balance in the unreflected gas cost accounts proposed in this proceeding. "
(Transcript pp. 10 and 11).

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the rates and charges for, and the conditions under which, utility service is rendered in Montana.

2. Section 69-3-303, MCA, declares:

69-3-303. (1) Before it may approve any change increasing the rate or rates for utility service in a schedule generally affecting consumers in a utility's service area or before any change may become effective due to the passage of 9 months, the commission shall publish a notice of the proposed change, conforming to the requirements of 2-4-601 in one or more newspapers published and of general circulation within the area affected by the proposed change. This notice shall announce a hearing on the proposed change and shall inform interested persons how they may petition the commission to become parties to the hearing.

With this statute in mind, the Commission directs MPC to include a provision for a hearing in the deferred accounting formula.

3. When the commission sets rates using a formula based on past costs as proxies for future costs rate making is not retroactive. "The Constitution does not bind rate making bodies to the service of any single formula or combination of formulas Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances. " (Federal Power Commission v. Natural Gas Pipeline Company, 315 US 575 42 PUR NS p. 138). "The tariff provided unmistakably that the charge in the billable month was to be computed on the basis of a specific formula. There was no provision for a charge other than the monthly rate computed under the formula and applied to the kilowatt-hours in the billable month. The fact that the formula was based on costs in a preceding period did not change its effect of providing a method to calculate a current charge rather than to exact a precise recovery of past expenses. Such a formula could as well have been based, for example, on some past wholesale price index or similar factor rather than actual cost incurred, and yet be the basis for a 'current' charge. " (Jersey Central Power & Light Company v. Federal Energy Regulatory Commission, No. 78-1185, US 3rd Circuit Court of Appeals). The Court succinctly stated in State of Missouri Ex. Rel. Southwestern Bell Telephone Company v.

Missouri Public Service. Commission et al. (PUR 1923c p. 199): "Estimates for tomorrow cannot ignore prices of today. "

4. The rates authorized by this Commission are just, reasonable, and not discriminatory.

ORDER

The Montana Public Service Commission orders that:

1. MPC tariffs DAG-79 and Rate DAG-79 are accepted. Revenues and expenses shall begin accruing for accounting purposes in DAG-79 upon approval of this order.

2. MPC shall file monthly reports detailing amounts in DAG-79. Amounts attributable to changing gas mix shall be itemized.

3. Other motions and objections not ruled upon are denied.

DONE IN OPEN SESSION at a meeting of the Montana Public Service Commission held on January 2, 1980 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

ATTEST:
Madeline L. Cottrill
Secretary

(SEAL)
NOTE

Gordon E. Bollinger, Chairman

George Turman, Commissioner

Thomas J. Schneider, Commissioner

Clyde Jarvis, Commissioner

James R. Shea, Commissioner

NOTE: You are entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM