

Service Date May 27, 1982

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application by) UTILITY DIVISION
THE MONTANA POWER COMPANY for) DOCKET NO. 80.4.2
Authority to establish increased) ORDER NO. 4714e
rates for natural gas and electric) PHASE II
service in the State of Montana)

* * * * *

ORDER ON MOTIONS
FOR RECONSIDERATION

* * * * *

FINDINGS OF FACT
Background

1. On April 8, 1980, the Montana Power Company (MPC, the Company or Applicant) filed with the Commission an application for authority to increase rates and charges for electric and natural gas utility service. The filing was assigned Docket No. 80.4.2 and on May 13, 1980 was bifurcated into Phase I -- revenue requirement -- and Phase II -- electric rate design.

2. On April 21, 1982, the Commission issued Order No. 4714d setting forth its Findings of Fact in Phase II of Docket No. 80.4.2.

3. Motions for Reconsideration of Order No. 4714d were submitted by the Applicant, the District XI Human Resource Council, Inc., Champion International Corporation and Ideal Basic Industries, and the Montana Irrigators, Inc.

Montana Power Company

I. Rate making Criteria

4. At Finding No. 10 the Commission points out that "it is regularly required to consider a myriad of criteria -- not simply costs alone. However, it is the case that the Commission finds that costs 'to the maximum extent practicable' is the proper approach to pricing."

5. The Company requests "that the Commission again attempt to formulate its approach to rate spread and rate design matters A in that oblique references to a 'myriad' of criteria...do little to further the parties' understanding of the Commission's Rate making policies." (p. 2)

6. The request is denied. The Commission is simply unable to provide an exhaustive list of Rate making criteria required to arrive at just and reasonable rates. The record neither provides nor purports to provide an exhaustive list of Rate making criteria. Should the Company wish to pursue this subject further, it is encouraged to reference the work of Drs. Bonbright (1) (who, at p. 291, provides a list of "criteria of a desirable rate structure") and Power (Exh. D), the latter of which provides an elaborate discussion of the complexities inherent in multi-objective rate making which the Commission finds commendable.

II. Primary/Transmission Costs

7. At Finding No. 13 the Commission finds that "the primary determinant of the cost variation in serving Industrial versus General Service loads is service voltage level.

New York: Columbia University Press.

8. The Company requests that "the Commission defer adoption of this criterion for classifying customers until such time. . . an evidentiary showing on its merit or lack of merit has been developed." The Company argues that the Order features "no citation to the record for evidentiary support... undoubtedly because the matter was not raised and discussed at hearing. " Further, the Company argues, it "is improper, coming as it does without any notice that the Commission contemplated the possibility of such a finding and without the barest shred of evidentiary support." (p. 3)

9. The request is denied on the following grounds:

1) the Notice of Public Hearing (October 6, 1981) states:

"the hearing will deal with all matters pertaining to electric rate design, which will determine the rates to be paid by each customer and customer class,"

2) the Company's testimony (Exh. 1) proposes several revisions to customer classification,

3) the entire text of the MAFB testimony (Ehh. A) pertains to customer classification, and

4) the evidentiary support is extensive.

10. The Company's allegations that the finding lacks "the barest shred of evidentiary support" appears to indicate that the Company fails to grasp the content of its own testimony. For example, Exh. 1, BJA-1, p. 1 of Schedule 1, indicates that approximately 95 percent of the 16 percent Industrial/General Service energy differential, as provided

in Schedules 2 through 4 of Finding No. 36, is a result of service voltage level; Likewise, Schedules 14 and 13 of Exh. 1, BJA-1, indicate that the Industrial/General Service demand and customer cost differentials are primarily a result of service voltage level.

III. Classification of Malmstrom Air Force Base (MAFB)

11. Finding No. 13 finds that "MAFB is a transmission level customer with a test year peak demand of 6816 kw and an annual test year load factor of 62 .9 percent. These characteristics clearly correlate with the Industrial class (transmission level with peak demands and load factors as low as 5274 kw and 58.6 percent), not the General Service class (only primary and secondary customers). The primary determinant of the cost variation in serving Industrial versus General Service loads is service voltage level. The Commission finds no reason why MAFB should be subjected to the distribution demand costs or energy line losses associated with primary and secondary service."

12. Finding No. 15 directs the Company to classify MAFB as an "Industrial customer served at the Industrial rate."

13. The Company requests reconsideration on grounds that "MAFB is in fact a primary voltage level customer. Although MPC disagrees...with the use of any single factor to classify a given customer, it submits that the basis of this action by the Commission is a mistake of fact which must be remedied. MPC also submits that the load characteristics of MAFB are similar to the characteristics of several other large general service customers. MAFB is not an industrial customer, and, therefore, MAFB is properly classified as a general service customer. " (p. 4)

14. The Commission denies the request on the following

grounds:

1) The Company failed to provide evidentiary support to its contention that "MAFB is in fact a primary voltage level customer."

2) MAFB testified that "when MAFB first took service from MPC, MAFB provided the substation and all poles, wiring and transformers on their side of a single meter." (Lewis, Exh. A, p. 14) This testimony provides evidentiary support, unrebutted by the Company in testimony or at hearing, to the conclusion that MAFB is a transmission level customer.

3) The Company's contention that the loads and load characteristics of MAFB are similar to those of several other large general service customers is unsubstantiated by evidence (I. e. What load characteristics? How similar to what other General Service customers). In contrast, the testimony of MAFB (Lewis, Exh. A, p. 13) suggests that the load factor and peak demands of MAFB are only vaguely similar to the general service class while the Company's load data (Statement H, pp. 17 & 21) indicates, as provided in Finding No. 13, that the MAFB peak demand and load factor fall into the range of the "Industrial" customers. MAFB's peak demand is greater than that of Kaiser and its annual load factor is greater than that of Kaiser and Champion.

4) It is not clear from the Company's Motion whether the statement "MAFB is not an industrial customer, and, therefore, MAFB is ...a general service customer" is intended to imply that one needs to engage in some type of industrial activity as a prerequisite to a rate schedule. However, the Commission would point out that such classification criterion certainly lacks an analytical basis (e.g. does the

industrious production of works of art in a backyard workshop qualify one's load for the "Industrial" rate?).

IV. Price Signal

15. At Finding No. 42, the Commission finds that "Should the consumer rationally decide to displace one unit of energy consumption with a less costly or more valuable substitute, the resulting change in the total bill is clearly a function of the energy rate. The energy rate is clearly the price signal which will determine the direction of the Company's travels through the black hole."

16. The Company requests reconsideration, arguing that, " [at this point the Commission purports to analyze the economic discussion between MPC's Mr. Lewis and HRC's Dr. Power on the question of what constitutes the 'price' perceived by consumers--total bill (average price) or tail block price. This discussion occupied numerous pages of testimony and transcript, with both parties acknowledging some merit in the opposing position.

Into this evidentiary thicket the Commission jumps, only to reject the MPG position 'in total' on the ground that the energy rate is clearly the price signal." (original emphasis)
(p. 4)

17. The Company further comments that the word "clearly" was frequently used in the order: "Clearly" makes for easy order writing, but fails to meet the Commission's obligation to analyze the evidence before it and to disclose the basis for the determination of an issue.

18. The Commission denies the request for the following reasons:

- 1) The Company's Motion does not make clear what is to be reconsidered.
- 2) The Commission finds peculiar the Company's rationale linking "numerous pages of testimony and transcript" with length of Order or number of Findings of Fact.
- 3) Finding No. 42 explicitly states the Commission's finding and the basis for that finding.

19. It is not surprising that the Company detected "both parties acknowledging some merit in the opposing position," in that the argument is, in part, tautological. Mr. Lewis argues (Exh. 2), and Dr. Power acknowledges (Exh. D, p. 128) that energy consumption is a function of the total bill, or its linear (by energy) equivalent -- the average bill. Both parties also acknowledge that the total bill is a function of the rate structure and that changes in consumption is motivated by charges in the total bill (Exh. D, p. 127 and Tr. p. 701). The latter (i.e. marginal consumption) is what is at issue in Finding No. 42. It is at this point the position of the two parties diverge (e.g. See Tr. p. 1009) leading to the Commission's finding that consumption, at the margin, is clearly a function of the energy rate the consumer faces at the margin -- whether that be the second of three declining blocks or the seventh of seven inverted blocks.

V. Residential Minimum Bill

20. At Finding No. 45, the Commission " . . . finds persuasive the proposals of Drs. Logan and Power to recover residential class customer revenues via the energy charge. The minimum bill concept provides a mechanism for pricing energy closer to its cost level and eliminates the declining average energy cost signal resulting from fixed monthly customer charges."

21. The Company " . . . submits that this statement is erroneous, and that the effect of the ordered rate design will be, in fact, a declining average energy charge similar for the below minimum bill equivalent customers (about 15,000) to that which would result from use of a customer charge. Because the basis of the quoted assertion is not disclosed, and the result of the ordered design is opposite the intended result, MPC urges that this language and the minimum bill concept be re-examined." (p. 6)

22. The Commission accepts the request. The language in Finding No. 45 should read "The minimum bill concept...substantially reduces the declining average energy cost signal..." The Commission would point out, however, that the 15,000 (source not specified) customers with monthly consumption of less than 80 kwh ($\$2.64 / .0333$ \$ per kwh) represents a small portion of the residential energy consumption. For example, Montana-Dakota Utilities' billing frequency data (discovery, Docket No. 81.1.2) indicates that a minimum bill of \$2.64 would eliminate the declining average energy cost signal for 99.47 percent of its residential sales.

VI. Seasonal Energy Differential

23. At Finding No. 51 the Commission finds that " . . . the [residential] tariff shall also reflect a flat energy charge with a 20 percent seasonal differential. The 20 percent level represents a noncompensatory (Exh. 1, BJA-1, Sch. 2 and 15 indicate compensatory differentials of 36 percent for energy and 50 percent for demand) differential, but which will provide a price signal indicative of the Company's costs and is consistent with the proposal of Dr. Logan." ...

24. The Company, " [f] finding no evidentiary basis for this level of differential, . . . asks that the Commission reconsider the appropriate level of seasonal variation."

25. The Commission denies the request on grounds that the Order explicitly states:

1) The differential is not fully compensatory (I. e. gradualism, customer acceptance, customer understandability, etc.).

2) It provides a significant price signal indicative of the system costs.

3) It is consistent with the residential rate design proposal of Dr. Logan (20.678%, as provided in Exh. B, p. 2 of RL-1).

VII. Industrial Minimum Bill

26. At Finding No. 65 the Commission finds that " . . . the Industrial rate schedule should include a minimum bill of, rather than 5,000 kw, one third of the contracted demand. A minimum bill of one-third of the contracted demand will allow plenty of room for efficient consumptive decisions at the margin. is equitable in that it treats all customers equally and provides a modest level of protection to the ratepayers from the possible burden of generating revenues to recover the embedded costs incurred to provide dedicated facilities to industrial customers which have abandoned the system.

27. The Company requests reconsideration, in that the Commission, in the Order:

- 1) "mistakes the first demand block of MPC's proposed large industrial contract price for a minimum bill,"
- 2) "goes on . . . to remedy a problem that does not exist" (I . e. the minimum demand charge), and
- 3) "in what MPC considers a major deficiency in the order...throws out the negotiated minimum bill provisions of each contract between MPC and its large industrial customers."

28. The Company requests that 1) the negotiated minimum bills be reinstated and 2) the Commission reconsider and accept the minimum demand charge.

29. The Company bases the request on the following grounds:

- 1) "the minimum demand charge serves as a minimum demand charge, not a minimum bill, "
- 2) "the demand part of the minimum provisions in the contracts is, in most cases, the contract demand (and) as such, the provisions provide the correct level of protection to other ratepayers,"
- 3) "the finding and the ordered modification of contract minimums exceed the Commission's power over contracts,')
- 4) "the 'modest' level of protection afforded other ratepayers by the Commission's formula is, in fact, minimal," and
- 5) "because the minimum bill adopted by these findings has no support in the evidence, and because its adoption is contrary to law, it should be rejected and the negotiated minimum bills, which provide the correct level of protection to other ratepayers, and which reflect the will of the parties in the light of all relevant circumstances, should be

reinstated.

30. The Commission rejects the request to reinstate the minimum 5,000 kw charge on grounds that neither the record nor the Company's motion establish the need for a minimum demand charge fixed at 5,000 kw per customer.

31. The Commission accepts the request to reinstate the negotiated minimums, subject to further examination. The Commission rejects the Company's contention that full contract demand reflects "fixed costs" and therefore necessarily represents the "correct" minimum bill. The Company's contention that the Commission has exceeded its regulatory authority lacks legal citation which precludes a response.

32. The Company is directed to examine Industrial minimum bills and propose, in its next general rate case filing, standard minimum bill language to be included on the Industrial tariff. The examination should include an analysis of risk and the fixed costs associated with dedicated plant whether that be demand, customer, or energy related costs.

VIII. Irrigation Rate Design

33. At Findings Nos. 74 and 75, the Commission finds that " the proper approach [to irrigation rate design] is to grandfather the existing structure and place all new loads of both new and existing-customers (i.e. new pumps) on the flat energy rate. The existing structure is to be available only to the existing loads (i.e. existing pumps) of existing customers. The restructured rate shall also be made available to all existing customers. To the extent that existing customers choose to be served at the restructured rate and

thus choose not to subsidize the handful of grand fathered users, the Company will be provided incentives to commence with proper billing procedures -- including the recording of bill frequencies -- and an analysis of the irrigation class.

34. At Finding No. 77, the Commission directs the Company to design the flat energy rate schedule such that it "features the same seasonal minimum featured in the existing rate (\$12.33/horsepower) converted to a monthly minimum based on a six month season." A Purported Revenue Shortfall.

35. The Company requests reconsideration arguing that, "With a flat rate design presenting the prospect of increases well in excess of the overall class increase for large irrigation customers, economically rational customers in this category will opt for the grand fathered design. The effect of this combination and choice of rate designs will be avoidance by the large customers of the 'double burden', a response which the Commission recognizes and encourages. The attendant impact of this avoidance of burden. however. is necessarily an under collection of revenues. " (p. 11)

36. The Commission denies the request. The Company's assertion that it has "demonstrated" revenue shortfall is without substance. However, should the Company develop the ability to calculate revenue shortfall (or excess revenues) then the Company, for a one year period commencing with the issuance of this Order, can submit the calculated revenue shortfall (or excess) to the Commission for its consideration in a subsequent proceeding.

B. Grand fathered Revenues

37. The Company requests that the Commission explicitly state

that the Grand fathered rate design is to reflect the 63 percent revenue increase.

38. The request is granted. The Commission has grand fathered only the existing rate structure -- not revenues.

C. Irrigation Minimum Bill.

39. The Company requests reconsideration, in that "The proper approach...would be to apply the class revenue responsibility adjustment to [the minimum bill] . . . portion of the rate design as well as to the other components.

40. The Commission denies the request. The restructured rate schedule features a flat energy rate and a customer charge designed to recover, in total, irrigation class energy, demand, and customer revenues.

The Company's proposal to include in that schedule a minimum bill of \$20 per horsepower lacks evidentiary support,- is deemed punitive in nature, and contrary to the conservation, equity, and efficiency goals of rate making.

D. Availability to the General Service Schedule.

41. The Company " . . . requests the Commission to adopt the proposed language in the Availability section of the proposed General Electric Service rate schedule in Phase I of this docket regarding irrigation service. That language renders that schedule unavailable for irrigation pumping and sprinkling service. By acting on and adopting that language the Commission will ensure that all irrigation service will be provided at only the ordered irrigation rate schedule."

42. The request is granted. The Company's General service tariff shall feature availability language which precludes irrigation loads.

E. Minimum Bill.

43. The Company . . . also requests, for the same reasons as are set forth under Section 7 in this Motion, that the minimum seasonal bill be expressed as in the Rate section and described as in the Special Terms and Conditions section of the current irrigation schedule in Paragraph 2 of that section. " (p. 13)

44. The Commission has interpreted this Motion as a request that the monthly minimum per Finding No. 77 be restated in the form of a seasonal minimum prorated over the period the pump is connected.

45. The request is denied. The unspecified reasons set forth in Section 7 of the Motion lend no support to a seasonal minimum versus a monthly minimum.

IX. Filing Date

46. At Order paragraph 3, the Commission orders the Company to file the complying tariffs within 10 working days.

47. The Company requests reconsideration in that the " . . . preparation of rates in compliance with the order, including any and all charges which will be made upon reconsideration, will take more than ten (10) working days. MPC has estimated approximately forty (40) working days to be required and has informed the staff that next general electric rate change application will be delayed until the compliance rates are

approved and can be incorporated in that filing." (P.14)

48. The Commission established a 10 day filing deadline with the intent that 10 days represented a lenient interpretation of the sufficient time required to submit complying tariffs. This lenient interpretation of a 10 day restraint results from recent filings where the Commission has found electric utilities submitting redesigned tariffs (with additional revenues) within two days of the Service Date of the Order.

49. The Commission directs the Company to file tariffs at the earlier of 1) the date of its next electric rate case filing, or 2) June 1, 1982.

X. Tariff Language

50. In setting forth the Industrial rate design, the Commission finds at Finding No. 64 that "[t]he costing methodology adopted in this Order indicates that the characteristics of the Industrial class are (in their order of significance): 1) transmission level of service, 2) a relatively high seasonal coincidence, and 3) a relatively high load factor with seasonal parity. The Company's revised tariff should include availability language reflecting this finding."

51. The Company requests reconsideration maintaining that "[t]he order makes certain statements regarding language to be used in the body of the various rate schedules, notably in Finding 64. MPC has addressed the 'transmission' and 'primary' designations elsewhere in this petition, requesting they be removed from the order. MPC here requests that the Commission direct adoption of the rate schedule language already in MPC's proposed electric tariff in Phase I of this docket and remove from the order the vague, imprecise

language references such as set forth in Finding 64." (p. 14)

52. The Commission rejects the request on the following grounds:

1) The motion fails to specify the "certain statements" or "vague, imprecise language references" of which the Company seeks reconsideration.

2) The proposed tariffs in Phase I do not feature an Industrial tariff with proposed availability language.

3) The Company's attempt at refuting the Finding (See Finding No. 9 of this Order) lacks substance.

53. In Finding No. 64, the Commission has provided the Company the opportunity to develop workable Industrial availability constraints which follow costs. The Company is directed to file an Industrial rate schedule on Form 403-B which features the rate, terms and conditions of service including availability. If the Company finds that it is not able to structure the tariff language per Finding No. 64, then the Commission will develop the language based on the Industrial availability language found in the tariffs of the other five electric utilities regulated by the Commission.

XI. Directed Analyses

54. At Finding Nos. 76, 89 and 97, the Commission directs the .Company to 1) "prepare an analysis of the irrigation class, " 2) "further examine the lighting costing/pricing mechanism" and 3) "to propose an Interruptible Rate Schedule. " The Commission directed the analyses to be filed with the Company's next application for increased electric revenues.

55. Because the Company's "rate design staff will be devoted primarily to development of compliance rates under this order for approximately forty (40) working days's and because the Company intends to file an electric rate case "projected for June or July 1982," the Company requests the order be modified "so as to direct MPC to file the studies at the earliest practicable time."

56. The Company also requests the Commission provide " . . . more, . .specific . . . parameters and objectives . . . so as to allow conclusions and proposals which, when submitted for Commission consideration, will have some reasonable probability of addressing the Commission's concerns. " (p. 15)

57. In light of the Company's projected filing date, the Commission finds that each "study" shall be submitted as follows:

Irrigation: March 1, 1983

Lighting: Within 90 days of June 1, 1982

Interruptible: With the next electric rate case filing.

58. With respect to further direction, the Commission denies the request. In reviewing the Order, the Commission finds that it has provided sufficiently detailed parameters and objectives.

XIII. Conclusions of Law and Order

59. The Company contends that Conclusion of Law No. 4 and Order Paragraph 1 "...should be deleted if the irrigation rate design section of the order is not modified in

accordance with this Motion." The request follows from the Company's contention that it has "demonstrated revenue shortfall in the irrigation class" which renders the ordered rates unjust and unreasonable.

60. The request is denied. The Company's contention that it has "demonstrated revenue shortfall" is without substance.

XVIII. Clarification of Direction

61. The Company, in its last request for reconsideration, provides the following request: "MPC requests the order be made more specific so that compliance can be efficiently and correctly prepared. As drafted, the order contains numerous vague directives requiring clarification and reconsideration, some of which are identified in this Motion. It contains illustrative calculations that are in error. To comply with this order as it is written, MPC must wind its way through an initial order, meetings with the Commission staff to clarify vague instructions, this Motion for Reconsideration, and a supplemental order. This order and future rate orders should be clear on their face and provide all of the detailed information and instructions necessary for all parties to understand them. Order 4714d is not sufficiently specific and clear. The Commission ought to examine it carefully."

62. The request is denied for the following reasons:

1) The Company's contention that the Order features "numerous vague directives. . . (and) illustrative calculations that are in error, " does not provide one specific example or request for reconsideration. Unless the Company can provide specific examples of "vague directives" and "illustrative calculations that are in error," then the request amounts to

nothing more than diatribe.

2) The Company suggests that "this order and future orders should be clear on their face and provide all of the detailed information and instructions necessary for all parties to understand them. " This type of editorial critique has no place in a Motion for Reconsideration and is but one of many examples of the unprofessionally hostile, abusive, and sarcastic tone of the entire brief. It is unfortunate that the State's second largest utility finds it necessary to stoop to such pettiness.

3) The Company, as well as other parties, are afforded rebuttal/clarification opportunity in the form of Motions for Reconsideration -- an opportunity the Company has abused in this proceeding by submitting an editorial diatribe (e. g. the frequency at which certain words were used in the order, etc.) as opposed to factual information based on evidence of record (e.g. comparison of MAFB to General Service customers, calculation of alleged revenue shortfall, calculation of "correct" Industrial minimum bill, etc.).

4) In light of the lack of substance in the Company's Motion, the Commission can only conclude that it has provided adequate direction in Order No. 4714d.

XIV. Editorial Allegations

63. At this point in the Company's Motion, the Company, "although not seeking reconsideration, " finds itself "compelled to comment on portions of the order that can only be viewed with dismay."

64. The Commission finds itself equally compelled to respond to the Company's editorial allegations.

A. Embedded versus Marginal Cost.

65. At Finding No. 17, the Commission finds that " (t)he primary argument in support of embedded costs revolve around the relationship between costing and the revenue requirement. Whereas the marginal costs require a reconciliation of revenue, the embedded approach results in a 'clean' allocation of the revenue pie where the sum of the slices precisely equals the size of the pie. Marginal costing, alternatively results in a 'messy' allocation requiring an application of, in this case, the 'rule of ignorance' (Power, Exh. D) -- an equiproportional reconciliation where each class contributes an equal percent of its class marginal revenue responsibility. The embedded proponents argue that this reconciliation diminishes the potential effectiveness of marginal costing to the point that the embedded approach is preferred. (See especially: Cuiller Exh. 1, JAC-10, Freymiller Exh. 1, FMF-8, Haffey Tr. p. 301, Saleba, Tr. .pp. 451 and 556, and Yankel, Tr. p. 1050)."

66. The Company contends that " [a]llthough admirably simple, this analysis contributes nothing to a serious theoretical discussion. By dismissing the evidence of the embedded cost advocates in such a manner, the Commission fails to engage in a dialogue with the parties on the proper measure of utility costs for the purpose of pricing. Instead, the impression is left that an inconvenient or undesired theory was swept under the carpet to make room for a 'Brave New World' of marginal cost analysis.... The 'primary' argument advanced for this methodology was not related to revenue reconciliation, but rather centered on cost incurrence and utility resource utilization.... To condense complex arguments into one statement, and to mischaracterize even that one condensed statement, however, does a dis service to the complex and

expensive proceeding just concluded. " (p. 17).

67. The Commission rejects the Company's contention. The Company is in error in interpreting the function of an Order. The proper forum for "serious theoretical discussion" is the scientific literature, to be referenced and debated by expert witnesses in prefiled testimony subject to cross examination at a public hearing -- not an Order of the Commission. The function of an Order is the statement of concise Findings of Fact resulting from evidence of record. Finding No. 17 does just that, citing the testimony of five witnesses at six precise places in the record. In contrast, the Company's editorial allegation is unsupported by evidence of record.

68. The Commission, however, does not dispute the Company's perception of marginal costing as a "Brave New World" -- it certainly is, when viewed from the "Dark Ages."

B. Support of Marginal Costs.

69. Finding No. 18 provides the testimony of Company witness Mr. Ambrose as a "descriptive explanation of the benefits associated with marginal costing."

70. The Company contends that the quoted language in Finding No. 18 is "obscure" and "of little value" in supporting the Commission's findings.

71. The Commission rejects the Company's contention in that it fails to cite evidence of record rebutting the quoted testimony of Mr. Ambrose or the Commission's findings with respect to that testimony.

C. The Black Hole.

72: At Finding No. 19, the Commission "introduces the discussion of the 'black hole' which [purportedly] recurs throughout the Order" (Motion,P. 19).

73. The Company objects to the "black hole" characterization as an allusion which " . . . is never explained and the circumstances that define the condition are never set forth. Instead, the 'black hole' is simply related to unsubstantiated conditions of 'pancaked rate cases', a 'soaring revenue requirement' and 'customer unacceptance.' . . (which] presumably the attributes of the 'black hole,' are simply assumed to exist, but they, certainly are not demonstrated on the record before the Commission. "
(p.19)

74. The Commission rejects the Company's contentions. Finding No. 19 provides five references to the record and includes an illustrative calculation of revenue attrition. The Commission finds peculiar the Company's Motion which appears to question 1) the occurrence of revenue attrition (especially in light of the Company's intense lobbying of the 1981 legislature which led to an "attrition audit" of the Commission), 2) the characterization of a tripling of rates in 10 years as an indicator of a soaring revenue requirement, and 3) the characterization of the irrigation testimony as an indicator of customer unacceptance and rate instability.

D. The Arbitrary 75 Percent Adjustment.

75. At Finding No. 21 the Commission finds that " [t]he Company's arbitrary 75 percent reallocation of generation costs from demand to energy (certainly not "clean") is a clear indicator of the inability of the embedded, approach to

arrive at costs."

76. The Company finds "surprising" the Commission's "obvious misunderstanding" of this point which has been "stated, restated, emphasized and re-emphasized...How a rate design decision can be used to illustrate a 'clear' inability of embedded cost allocation analysis to arrive at class cost responsibility is, to say the least, unclear."

77. The Commission challenges the Company to provide a quotation of Finding No. 21, or any tether portion of the Order, that states that the adjustment relates to cost allocation among classes. The Company's assertion is totally in error -- it is no wonder they find it "surprising." The "obvious misunderstanding" is the Company's contention that costing efforts end at class revenue responsibility. In its consideration of cost of service methodology, the Commission is required (PL-95-617, Sec. 111(a),) "to examine such methods (which) to the maximum extent practicable...permit identification of differences in cost-incurrence attributable to differences in customer, demand, and energy components of cost" (PL-95-617, Sec. 115(a) -- as provided as an Appendix to Exh. 1; also see the Company's initial brief at p. 3 and Exh. 1, 1. 24 of JAC-12 through 1. 3 of JAC-13 and 11. 18 through 21 of JDH-3).

78. Finding No. 21 explicitly states the obvious, the embedded approach proposed by the Company is clearly unable to arrive at costs -- it requires the analyst to utilize an arbitrary number before it can arrive at demand and energy costs, values, or rates.

E. Historical Success of Embedded Price Signals.

79. At Finding No. 22 the Commission finds that "absent a marginal cost study there is simply no cost basis for establishing class and customer price signals."

80. The Company objects, contending that "...this absolutist approach to economic theory is unwarranted--certainly embedded costs have operated viably for years.... The assertion that the embedded approach enjoyed no support regarding its greater accuracy in reflecting costs and its equity completely ignores the testimony of MPC on these issues."

81. The Commission rejects the Company's contentions on the following grounds:

1) The Company's contention that Aembedded costs have operated viably for years " is without evidentiary support and directly conflicts with the voluminous public testimony of the irrigators and street lighting customer classes.

2) As Finding No. 21 explicitly states (and as confirmed above), the Company's proposed embedded approach does not produce energy and demand price signals. It is that inability to arrive at price signals which has led to an existing Anaconda energy rate of .34 per kwh at a time it cost the ratepayers 15 times that amount to replace the energy.

3) The Commission has not ignored the Company's testimony; it has rejected it.

F. Cost/Noncost Criteria.

82. At Finding Nos. 41, 43 and 44 the Commission characterizes the Company's residential rate design position

as an absolute rejection of noncost criteria.

83. The Company contends that the Commission is "confused" in that its findings misrepresent the position of the Company which was "that costs should be a beginning point, not that all other factors were foreclosed. "

84. The Commission finds itself in a no-win situation. However, in an attempt to clear the air, the Commission finds that the testimony in this proceeding indicates that the Company's position is that:

1) "cost of service should, without exception, be the basis for electric rates,"

2) "cost of service rates are the only way to equitably distribute electricity, "

3) "ability to pay. . . should not be the basis of the Commission's determination of the proper electric rates," and

4) "costs should be a beginning point, (and) all other considerations (should not be) foreclosed." (Exh. 1, JDH-5 and JAC-42; Motion p. 21).

G. Inverted Rates Testimony.

85. At Finding Nos. 47 through 49 the Commission cites the testimony of Dr. Power, Mr. LaCapra, Mr. Yankel, and Mr. Haffey as persuasive evidence in support of inverted rates.

86. The Company contends that "the Commission's concurrence is reached without so much as a passing reference to the contrary evidence in the record."

87. The Commission rejects the Company's contention. The Company has failed to provide citation of substantive evidence to the contrary.

XV. Conclusion

88. The Company's motion finally arrives at a conclusion which includes the following statement: "MPC hopes that these comments will be received in the manner in which they are offered--a desire to arrive at a greater understanding of the regulatory process and its underlying economic theory. "

89. The Commission wishes to point out that the Company's Motion for Reconsideration is extremely weak in constructive content and was not received in the manner the Company alleges it was intended. If the Company wishes "to arrive at a greater understanding of the regulatory process and its underlying economic theory," then in the future it should submit Motions for Reconsideration which feature constructive arguments based on references to evidentiary support.

District XI Human Resource Council, Inc.

I. Inverted Residential Energy Rate

90. At Finding No. 50 the Commission finds that "although the... evidence [in support of an inverted residential energy rate] is persuasive, it also finds merit in gradualism. The Commission finds, for purposes of moderating the customer impact, that the minimum bill in combination with a significant seasonal differential provides an adequate first step in arriving at a proper price signal. The Commission wishes to make clear, however, that the proper pricing

prescription clearly entails a movement to inverted rates in the near future."

91. District XI HRC " . . . submits that the Commission must modify its Order to immediately implement an inverted rate structure for Applicant's residential class of customers. " The Motion is based on the following argument: ". . . [I]n Docket No. 81.1.2 the Commission did not see the merit in gradualism, and ordered an inverted rate structure for Montana-Dakota Utilities' residential class of customers. Likewise, in Docket No. . . . [6728], the Commission ordered an inverted rate structure for the residential customers of Pacific Power and Light.

There is no rational difference between the residential customers of Montana Power Company and the residential customers of the other cited utilities. There is no rational basis upon which to treat these Montana residential classes different from each other."

92. The Commission denies the request. There is a rational difference between the residential cost of service resulting from the characteristics of each of the regulated utilities. Pacific Power and Light's system energy costs do not vary by season (See Docket Nos. 6728, 80.8.67, 81.8.70 or 82.4.28 Montana-Dakota Utilities' system energy costs feature four seasonal periods resulting from a bimodal peak. (See Docket No. 6695 or 81.1.2.) For purposes of following costs and customer acceptance, respectively, neither residential tariffs reflect energy cost variation. PP&L's does feature a 10 percent demand variation. In contrast, the costing methodology adopted in Order No. 4714d indicates a substantial energy and demand variation (See Finding No. 51). For purposes of gradualism, moderating customer impact,

customer acceptance, etc., the Commission has 1) moderated the fully compensatory seasonal differential and 2) chosen not to immediately implement an inverted residential energy rate.

II. Compensation to Consumer Intervenors

93. Order No. 4714d makes no finding with respect to District XI HRC's application for reimbursement of its costs of participating in Phase II of Docket No. 80.4.2.

94. District XI HRC requests the Commission modify Order No. 4714d in ruling upon their request for reimbursement.

95. The Commission accepts the request and hereby sets forth the following findings:

1) On July 6, 1981 the Commission granted preliminary eligibility status to District XI HRC for award of costs in Phase II of Docket No. 80.4.2.

2) The Commission finds that District XI HRC has substantially contributed to the formal decision of the Commission and is therefore entitled to reimbursement for reasonable costs of participation. The Commission's findings with respect to costing methodology, lifeline rates, and inverted rates drew heavily from the testimony of HRC expert witness Dr. Power.

Champion International and Ideal Basic Industries

96. Champion requests that Order No. 4714d be "vacated, set

aside and issued in accordance with these intervenors' methodology" based on the following reasons:

- 1) The Order exceeded the statutory authority of the Public Service Commission.
- 2) The Order was based upon lawful proceedings.
- 3) The Order is effected by error at law.
- 4) The Order is based upon clearly erroneous evidence when there is reliable, probative and substantial evidence in the record.
- 5) The Order is arbitrary, capricious, and is characterized by an abuse of discretion.
- 6) The Findings of Fact upon issues essential to the decision of the agency were not made although requested by intervenors herein.

97. The Commission denies the Motion in that the stated reasons for said Motion are not substantiated by evidence of record.

Montana Irrigators, Inc.

98. The Montana Irrigators, Inc. filed a Motion for Reconsideration proposing that the Commission "reject the marginal cost approach within said Order No. 4714d and replace the same with the embedded/actual cost approach heretofore urged by Montana Irrigators or maintain the status quo as urged by Montana Irrigators."

99. The irrigators argue that "the marginal cost approach is arbitrary and capricious and is inconsistent and wholly fails to accomplish the goals which are articulated within said Order No. 4714d."

100. The Commission denies the Motion. The Irrigators have failed to substantiate the "fact" upon which the Motion is based.

CONCLUSIONS OF LAW

1. Montana Power Company is a public utility within the meaning of Montana Law, Sections 69-3-101 and 69-3-601(3), MCA.

2. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's operations pursuant to Title 69, Chapter 3, MCA .

3. The rate structures authorized by the Commission, based upon analysis of the entire record, are just, reasonable, and not unjustly discriminatory .

ORDER

The motions for reconsideration are granted and denied as noted in the Findings of Fact contained in this Order.

Done and Dated this 26th day of May, 1982 by a 4-0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST;

Madeline L. Cottrill
Commission Secretary
(SEAL)

NOTE: You may be 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. 38.2.4806 ARM.