

Service Date: April 29, 1986

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

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IN THE MATTER Of The Commission's)
Investigation Of Electric Avoided)
Cost Rates.)

UTILITY DIVISION

DOCKET NO. 84.10.64

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ORDER DENYING MOTION
FOR DECLARATORY RULING

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BACKGROUND

1. On or about September 12, 1985, the Montana Public Service Commission (Commission) issued Order No. 5091b in Docket No. 84.10.64. This order was issued as a proposed order. The electric utilities were to file proposed tariffs based upon the implementation of the proposed order. All parties and intervenors were given ten (10) days from the last proposed tariff filing to submit comments.

2. On or about March 7, 1986, the Commission entered Order No. 5091c in Docket No. 84.10.64. This order was issued as a final order in this docket. In addition to setting forth the final avoided cost methodology adopted by the Commission, this order addressed the comments filed by the parties under the proposed order. This final order required the electric utilities

to file compliance tariffs within two weeks from its service date.

3. Subsequent to the issuance of Order No. 5091c, the Commission received from all three utilities various requests for extension of time within which to file the required tariffs. The Commission allowed the utilities collectively until April 18, 1986, to file such tariffs.

4. The Commission did not receive any Motions for Reconsideration of the final order from any of the parties to Docket No. 84.10.64.

5. On or about April 8, 1986, the Commission received a Motion for Declaratory Ruling on behalf of Mitex, Inc., an intervenor and party in Docket No. 84.10.64. In the alternative, the Motion requested that:

- a. The Commission declare that under ARM Section 38.2.4806, Order No. 5091c not be considered final and appealable until such time as the required compliance tariffs are filed, or
- b. That the parties to Docket No. 84.10.64 be given an opportunity to comment on the compliance tariffs prior to Commission approval of the tariffs.

COMMISSION ANALYSIS AND DECISION

6. Docket No. 84.10.64 was initiated to revisit the appropriate methodology for computing avoided cost prices. The emphasis was clearly placed upon a reexamination of methodology, as

opposed to resulting prices. Procedural Order, Docket No. 84.10.64, Finding No. 3.

7. In its Motion filed with the Commission, Mitex states that its concerns revolve around the implementation of the order:

Mitex, Inc. does not necessarily oppose the basic conclusions of the Montana Public Service Commission in Order No. 5091c but wishes to reserve the right to comment on the implementation of the order...

8. In the first part of its Motion, Mitex is essentially requesting that the Commission extend the time for appeal of Order No. 5091c beyond 30 days from the date of service. The appeal time is jurisdictional in nature. The Commission cannot create a right of judicial review, as that power is reserved for the legislature.

9. In the second part of its Motion, Mitex requests an opportunity to comment on the compliance tariffs prior to their approval. Mitex is concerned with the actual implementation of Order No. 5091c. It is the Commission's intention to closely scrutinize the filed tariffs and related data, to insure compliance with the terms of Order No. 5091c. To the extent that any of the parties are concerned that the compliance tariffs have been incorrectly computed, those parties may contact the Commission with their concerns, either informally, or formally through the complaint process.

10. For the reasons stated herein, the Motion for a declaratory ruling filed by Mitex, Inc., is DENIED.

DONE AND DATED this 21st day of April, 1986 by a vote of 4-0.

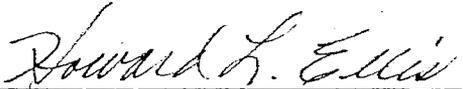
BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION



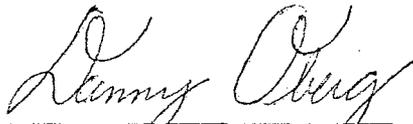
CLYDE JARVIS, Chairman



JOHN B. DRISCOLL, Commissioner



HOWARD L. ELLIS, Commissioner



DANNY OBERG, Commissioner

ATTEST:


Trena Scoffield
Commission Secretary

(SEAL)