

Service Date: September 29, 1992

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

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IN THE MATTER of the Application)	UTILITY DIVISION
of Northwestern Telephone Systems,)	
Inc., d/b/a PTI COMMUNICATIONS for)	DOCKET NO. 92.7.32
Approval of Revised Rates.)	ORDER NO. 5638b

ORDER ON MOTIONS BY WHITEFISH CHAMBER OF COMMERCE

BACKGROUND

Docket No. 92.7.32 was initiated on July 1, 1992 when PTI filed a general rate case with the PSC. Procedural Order No. 5638a was issued on August 5, 1992. Intervenor testimony is due to be filed on October 9, 1992.

On August 5, 1992 intervenor Whitefish Chamber of Commerce (WCC) filed a Motion to Compel Compliance with PSC Order No. 5543b. On August 18, 1992 PTI filed a Brief in response. The PSC held a public worksession to consider the Motion on September 10, 1992, and directed its staff to prepare a written Order denying the Motion.

On September 15, 1992 the Whitefish Chamber of Commerce filed a Motion to Compel Further Response to Data Requests, specifically WCC-2c, 5a, 5b, 5c, 5d, 7a, 7b, 8e, 11b, 16, 18a, 18b, and 18c. On September 25, 1992 PTI filed a Response.

This Order constitutes the Commission decision on both of the above Motions.

WCC MOTION TO COMPEL COMPLIANCE WITH ORDER NO. 5543b

The first WCC Motion requests that the Commission order PTI to amend or supplement its filing to include a proposal which "at a minimum unifies the base rate areas of Kalispell, Whitefish and Columbia Falls, thereby eliminating the telephone exchange boundaries between them, ...". WCC Motion, p. 9. The Commission's 1991 Order cited by WCC did not specifically define "unified base rate area." Docket No. 90.6.36, Order No. 5543b. Although there was testimony on this term at the public satellite hearing held last year, a "unified base rate area" was not an issue or properly before the Commission in that Docket. The current Docket, however, is a full general rate case which is intended to examine all areas of PTI revenue requirements and rate design. Given the early procedural status of this case, it is very premature for the Commission to express any opinion at this time on what is or is not an appropriate rate design or base rate area configuration. This is one of the primary subject areas of this case. PTI, MCC, WCC and other intervenors are free to propose any type of base rate configuration or rate design which they believe to be appropriate or that the Commission should consider. Intervenor testimony containing their proposals is due to be filed October 9, 1992. One purpose of the procedural schedule and hearing in this case is to give all parties the opportunity to present and develop various alternatives.

It would be premature to issue a ruling on the desirability of PTI's proposal at this time, and the Commission therefore denies WCC's Motion to Compel Compliance with Order No. 5543b. At the same time the Commission also considers the proposals of WCC as described in their Motion and discovery to be worthy of study and development, for consideration by the Commission in this case. The PSC encourages all parties to present and develop their proposals and views. Obviously, a Commission decision on the merits will not be made until after the formal hearings and briefing by the parties.

WCC MOTION TO COMPEL FURTHER ANSWERS TO DATA REQUESTS

WCC's second Motion requests an Order compelling further responses to certain WCC Data Requests. Upon examination of the responses, it is clear that PTI has failed to provide complete answers to many of WCC's Data Requests. For example, in response to WCC-

18a, PTI's response states: "The requested information requires analysis which has not been performed." PTI failed to object to WCC's Data Requests within seven business days, as required in the Procedural Order. Order No. 5638a, p. 8. The Commission grants WCC's Motion to Compel PTI to provide further and complete answers to WCC-2c, 5a, 5c, 5d, 7a, 7b, 8e, 11b, 16, 18a, 18b and 18c.

Upon examination, it appears that PTI did provide a complete answer to WCC-5b, and therefore WCC's Motion is denied with respect to 5b.

WCC's Motion includes a clarification of Data Requests WCC-8e and 18b. In WCC-8e, WCC is only requesting total numbers, not numbers by individual firm. And WCC is requesting a two option structure which includes measured service in WCC-18b. With these clarifications, PTI is ordered to submit further responses to 8e and 18b.

PTI's response to WCC-16 appears to be satisfactory; however, WCC's Motion amends this Data Request by asking for copies of specific letters received from August through December of 1991. PTI is directed to provide the requested letters, as specified in WCC's motion.

OTHER DATA REQUESTS

PTI recently filed responses to Data Request PSC-93, but stated that the responses were only preliminary and approximate. PTI is also required to provide full authoritative and complete answers to PSC-93.

PTI's answers to WCC-6a, 6b and 6c were also unresponsive and incomplete. The PSC therefore also requires PTI to provide full and complete answers to these Data Requests.

CONCLUSIONS OF LAW

PTI Communications is a public utility providing regulated telecommunications services in Montana. PTI's operations, services and rates are subject to the full jurisdiction and control of the Montana PSC. §§69-3-101, 69-3-102 and 69-3-803, MCA.

The PSC has provided adequate notice and an opportunity to be heard by the parties regarding the motions by the Whitefish Chamber of Commerce, pursuant to the Montana Administrative Procedure Act. §§2-4-101 et seq., MCA.

The motion by the Whitefish Chamber of Commerce to require further answers to Data Requests should be granted on the grounds that the questions appear reasonably calculated to lead to the discovery of admissible evidence. Rule 26(b), M.R.Civ.P.

The motion by the Whitefish Chamber of Commerce to require PTI to amend or refile its case should be denied, because the last PTI Docket (No. 90.6.36) examined touch-call, mileage charges, and a few other miscellaneous services but did not specifically consider or define unified base rate area service, and did not require any particular base rate configuration. PSC Order No. 5543b.

The PSC further finds it necessary and appropriate to require further answers to all the Data Requests specified above, pursuant to its general regulatory and investigatory powers. §§69-3-102 and 69-3-106, MCA.

ORDER

WHEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

The Whitefish Chamber of Commerce "Motion to Compel Compliance With Order No. 5543b" filed on August 5, 1992 is hereby DENIED.

The Whitefish Chamber of Commerce "Motion to Compel Further Response to Data Requests" filed on September 15, 1992 is hereby GRANTED in part, as specified herein.

PTI must file and serve full and complete responses to WCC-2c, 5a, 5c, 5d, 7a, 7b, 8e, 11b, 16, 18a, and 18b on or before October 2, 1992.

PTI must file and serve further full and complete responses to WCC-6a, 6b and 6c on or before October 2, 1992.

PTI must file and serve further full and complete responses to PSC-93a, 93b, 93c and 93d on or before October 2, 1992.

PTI must file and serve full and complete responses to WCC-18c on or before October 2, 1992.

DONE AND DATED this 29th day of September, 1992 by a vote of 5-0.
BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman

WALLACE W. "WALLY" MERCER, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

TED C. MACY, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.