

Service Date: May 31, 2002

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

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IN THE MATTER OF BUSINESS SAVINGS	)	UTILITY DIVISION
PLAN, Complaint by the Montana Public	)	
Service Commission Regarding Unauthorized	)	DOCKET NO. D2001.7.101
Changes in Customers' Telecommunications	)	ORDER NO. 6386a
Carriers	)	

**ORDER ON RECONSIDERATION**  
**DEFAULT ORDER AND FINE**  
**AND ORDER ON ADDITIONAL COMPLAINTS**

On September 20, 2001, the Montana Public Service Commission (PSC) issued a Complaint (First Complaint) against Business Savings Plan (BSP). The Complaint identified five instances in which BSP changed the telecommunications carrier of customers in Montana without authorization by the customers. On December 4, 2001, the PSC entered Order No. 6386 in the above captioned docket, finding BSP in violation of § 69-3-1303, MCA and ARM 38.5.3801 and fining BSP \$1,000 for each violation that BSP was determined to have committed, for a total of \$5,000. On December 5, 2001, the PSC issued a Complaint (Second Complaint) against BSP, identifying three instances in which BSP changed the telecommunications carrier of customers in Montana without authorization by the customers. BSP responded to Order No. 6386 by filing a motion for reconsideration with the PSC on December 24, 2001. On December 28, 2001, BSP filed an Answer to the Complaint.

On April 8, 2002, the PSC issued a Notice of Commission Action on Reconsideration, Consolidation of Dockets, and Additional Complaints, in which action on the motion for reconsideration was deferred and BSP's required compliance with the default order was suspended pending additional procedures regarding the Complaint. All pending actions against BSP (First and Second Complaints and Notice of Additional Complaints) were consolidated into the above-captioned docket. On April 8, 2002 the PSC also issued Data Requests and Discovery

to BSP. On April 9, 2002, the PSC issued a Notice of Additional Complaints identifying three instances in which BSP changed the telecommunications carrier of customers in Montana without authorization by the customers. BSP was required to respond to the Data Requests and the Notice of Additional Complaints within twenty days. As of May 23, 2002, no response from BSP has been received by the PSC.

By the terms of the Notice of Additional Complaints issued on April 9, 2002 BSP was allowed 20 days to file its response. A response to a Complaint is an Answer. *ARM 38.2.2107*. BSP has not filed a response in accordance with that rule. The Answer that BSP filed on December 28, 2002, does not comport with *ARM 38.2.2107*. BSP did not respond to the PSC Notice of Additional Complaints issued on April 9, 2002.

BSP has not provided a valid or legal defense to the allegations contained in the Complaints issued by the PSC. BSP has not responded to the Data Requests and Discovery issued by the PSC on April 8, 2002. BSP's actions in not responding have deprived the PSC of any means of determining whether BSP may have some defense the PSC could view as legitimate. The actions of BSP in changing telecommunications carriers without consent are in violation of Montana laws. *See, § 69-3-1303, MCA, and ARM 38.5.3801*.

The PSC determines that BSP is in default for failure to file an Answer to the Notice of Additional Complaints issued on April 9, 2002; and in failing to adequately respond to the First (September 20, 2001) and Second (December 5, 2001) Complaints, and in failing to respond to the Notice of Commission Action on Reconsideration issued on April 8, 2002. BSP's Answer filed on December 28, 2001, does not comply with *ARM 38.2.2107*. The PSC also determines BSP is in default for failure to respond to PSC questions and Data Requests and Discovery.

BSP is subject to a fine of up to \$1,000 for each violation. *§ 69-3-1305(3), MCA*. The PSC determines BSP should be fined the maximum amount of \$1,000 per violation. There are five violations as set forth in the First Complaint, three violations set forth in the Second Complaint, and two violations set forth in the Notice of Additional Complaints.

THEREFORE IT IS HEREBY ORDERED BSP's motion for reconsideration is denied.

The suspension on BSP's required compliance with the default order is lifted, and the default order entered on December 4, 2001, is put into full force and effect as set forth below.

IT IS ORDERED, Business Savings Plan is in violation of § 69-3-1303, MCA, and ARM 38.5.3801 through failing to obtain customer authorization prior to changing the customer's telecommunications carrier in 10 instances identified in the three Complaints in the above matter, and Business Savings Plan must pay \$1,000 per violation for a total of \$10,000 to the Montana Public Service Commission within 30 days of the service date of this Order.

Done and dated this 21st day of May, 2002, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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GARY FELAND, Chairman

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JAY STOVALL, Vice Chairman

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BOB ANDERSON, Commissioner

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MATT BRAINARD, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Rhonda J. Simmons  
Commission Secretary

(SEAL)

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