

Service Date: September 13, 2001

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

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IN THE MATTER of the Pass Through of Fees)	UTILITY DIVISION
Levied on Regulated Companies for Funding the)	DOCKET NO. D2001.9.121
Office of the Montana Consumer Counsel.)	ORDER NO. 6369

FINAL ORDER

1. Section 69-1-223, MCA, provides for funding the office of the Montana Consumer Counsel (MCC) by a tax (fee) on all regulated companies (as defined at 69-1-201(3), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate which will be effective for the period beginning October 1, 2001 and ending September 30, 2002. Section 69-1-224(4), MCA, requires that the PSC "by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied" This Order is being issued pursuant to that requirement.

2. Order No. 6269, issued September 22, 2000, authorized regulated companies to increase rates and charges for an annual period from October 1, 2001 through September 30, 2001. The authorized rate during that period was .08 percent (.0008).

3. The applicable rate for the tax period beginning October 1, 2001 remains .08 percent (.0008). In order to permit full recovery of the MCC fees, it is the PSC's intention to permit all regulated companies affected by this Order to reflect this tax rate in their revenue requirement as of October 1, 2001.¹

4. As necessary, all regulated companies that pay the MCC fee may file tariffs reflecting the .08 percent tax rate. Companies collecting the .08 percent rate authorized in Order No. 6269 will not be required to change their rates or file new tariffs.

¹ "[R]egulated companies affected by this Order" means those companies that are rate regulated by the PSC. Other companies regulated "in any manner" (§ 69-1-201(3), MCA) by the PSC are subject to the MCC tax but do not need special authorization to recover the tax in their prices.

5. On September 30, 2001 the authorization granted to regulated companies by Order No. 6259 to recover the former tax rate of .08 percent (.0008) will expire. Because the new rate represents no change from the current rate, those regulated companies whose current tariffs are premised in part upon this rate are not required to file new tariffs reflecting the expiration of this authorization. It is assumed that these companies will continue to implement the .0008 tax rate. For rate regulated companies the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the MCC tax in cases where the amount to be recovered would not justify submitting new tariffs. A rate regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes). It should be noted, however, that the revenue requirement may not be accumulated unless otherwise authorized by the PSC.

6. It is the PSC's intention that all regulated services of a regulated company absorb the rate increase proportionately to that service's contribution to the total gross operating revenue generated by the regulated activities within this state. As limited exceptions to this general approach, however, the floors in "flexible band" tariffs need not be exceeded and special market-based rates need not be increased.

CONCLUSIONS OF LAW

1. Pursuant to §§ 69-3-102, 69-3-801 through 69-3-862, 69-3-1401 through 69-3-1409, 69-8-101 through 69-8-503, 69-12-201, 69-13-201, and 69-14-111, MCA, the Montana Public Service Commission has jurisdiction over regulated companies as defined at § 69-1-201, MCA.

2. The Public Service Commission is required by § 69-1-224(4), MCA, to allow immediate recovery of the regulated utility fee by each affected company in its rates and charges on an annual basis.

3. This Order does not apply to companies not rate regulated by the PSC.

4. The increased revenue requirement approved herein is a reasonable means of complying with § 69-1-223 et seq., MCA.

ORDER

Regulated companies as defined at § 69-1-201, MCA, are authorized to file tariffs reflecting an MCC tax rate of .08 percent effective October 1, 2001, consistent with the Findings in this Order. This authorization is permissive, not mandatory and effective dates may, at the companies' discretion, be after October 1, 2001.

Tariffs must be filed within seven (7) days of their proposed effective date if the effective date is after the service date of this Order.

DONE AND DATED this 13th day of September, 2001 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman

JAY STOVALL, Vice Chairman

BOB ANDERSON, Commissioner

MATT BRAINARD, Commissioner

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 ARM 38.2.4806.