

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	)	DOCKET NO. D2001.9.122
the Department of Public Service Regulation.	)	ORDER NO. 6370

**FINAL ORDER**

1. Section 69-1-402, MCA, provides for funding the Department of Public Service Regulation by a fee on all regulated companies (as defined in § 69-1-401(2), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate that will be effective for the period beginning October 1, 2001 and ending September 30, 2002. Section 69-1-403(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. The applicable rate for the tax period beginning October 1, 2001 is .23 percent (.0023). In order to permit full recovery of the PSC fees, this Order permits all regulated companies affected by this Order to reflect this tax rate in their revenue requirement as of October 1, 2001.<sup>1</sup> All rate regulated companies that pay the PSC fee may file tariffs reflecting the .23 percent tax rate.

3. The tax rate for the period October 1, 2000 through September 30, 2001 was .28 percent. Companies collecting at the .28 percent, or a rate higher than .23 percent, will be required to change their rates. Companies that are recovering the PSC tax at the .28 percent rate

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1 “[R]egulated companies affected by this Order” means those companies that are rate regulated by the PSC, with the exception of companies rate regulated pursuant to Title 69, Chapter 12, MCA (motor carriers). Other companies regulated “in any manner” (§ 69-1-401(2), MCA) by the PSC are subject to the PSC tax but do not need special authorization to recover the tax in their prices.

(or greater than .23 percent) must file new tariffs by October 1, 2001; or, in the alternative, these companies must accrue the over collection beginning October 1, 2001 and include it with a later tariff change. Such tariff change may not occur later than October 1, 2002.

4. Except for regulated companies that are currently recovering the PSC tax at a rate higher than .23 percent, the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the PSC tax, or may choose to continue recovering less than the current tax, in cases where the amount to be recovered would not justify submitting new tariffs. A regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes), consistent with paragraph 3, above.

5. All regulated services of a regulated company must 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, 69-13-201, 69-14-111, 69-8-101 through 69-6-503, 69-3-801 through 69-3-862, and 69-3-1401 through 69-3-1409, MCA, the Montana Public Service Commission has jurisdiction over regulated companies as defined at § 69-1-401, MCA.

2. The Public Service Commission is required by § 69-1-403(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 §§ 69-1-402, et seq., MCA.

ORDER

As necessary, rate regulated companies as defined in § 69-1-401, MCA, are authorized to file tariffs reflecting increased rates and charges effective October 1, 2001, consistent with the Findings of Fact contained 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

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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 ARM 38.2.4806.