

Service Date: October 30, 1995

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) DOCKET NO. D95.10.154
Funding the Department of Public) ORDER NO. 5871
Service Regulation.)

FINAL ORDER

1. Section 69-1-402, MCA, provides for funding of 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 of the tax rate which will be effective for the period beginning October 1, 1995 and ending September 30, 1996. Section 69-1-403(4), MCA, requires that the Public Service Commission (Commission) "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. 5801, issued September 9, 1994, authorized regulated companies to increase rates and charges for an annual period from October 1, 1994 through September 30, 1995. The authorized rate during that period was .23 percent (.0023).

3. The applicable rate for the tax period beginning October 1, 1995 is .18 percent (.0018). In order to permit full recovery of the PSC fees, it is the Commission's intention to permit all affected regulated companies to reflect this tax rate in their revenue requirement as of October 1, 1995.

4. As necessary, all regulated companies that pay the PSC fee may file tariffs reflecting the .18 percent tax rate. This means that overall, and considering the expiration of Order No. 5801 on September 30, 1995, companies collecting the .23 percent

rate authorized in Order No. 5801 will be required to decrease their rates by .05 percent (.0005).

5. Effective October 1, 1995 the PSC has no jurisdiction over municipal utilities. See, Montana Session Laws 1995, Chapter 288. Therefore, municipal utilities are not "regulated companies" as defined at § 69-1-401(2), MCA, and are not subject to the PSC tax.

6. The Commission notes that, as of September 30, 1995 the authorization granted to regulated companies by Order No. 5801, to recover the former tax rate of .23 percent (.0023), expired. Those regulated companies whose current rates are premised in part upon this tax rate must file new tariffs reflecting the expiration of this authorization. Regulated companies may file new tariffs reflecting the .18 percent (.0018) tax rate. However, for regulated companies the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. It should be noted however, that the revenue requirement may not be accumulated unless otherwise authorized by the Commission. This Order is issued after the expiration of Order No. 5801 and after the effective date (October 1, 1995) of the new .18 percent tax rate. Therefore, regulated companies that file new tariffs to reflect the .18 percent rate may calculate those tariffs to account for PSC tax revenue requirement from October 1, 1995 to the date the tariffs are filed, not later than December 1, 1995.

7. It is the Commission'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 and 69-14-111, 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 Section 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. The increased revenue requirement approved herein is a reasonable means of complying with §§ 69-1-402 et seq., MCA.

ORDER

As necessary, regulated companies as defined in § 69-1-401, MCA, are authorized to file tariffs reflecting increased rates and charges effective October 1, 1995, 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, 1995.

Tariffs must be filed within fifteen (15) days of their proposed effective date.

Done and Dated this 23rd day of October, 1995 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
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.