

Service Date: September 27, 1996

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

* * * * *

IN THE MATTER of the Pass Through of Fees)	UTILITY DIVISION
Levied on Regulated Companies for Funding the)	DOCKET NO. D96.9.156
Office of the Montana Consumer Counsel.)	ORDER NO. 5944

FINAL ORDER

1. Section 69-1-223, MCA, provides for funding the office of the Montana Consumer Counsel (MCC) by a 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, 1996 and ending September 30, 1997. 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. The applicable rate for the tax period beginning October 1, 1996 is .08 percent (.0008). In order to permit full recovery of the MCC fees, it is the PSC's intention to permit all affected regulated companies to reflect this tax rate in their revenue requirement as of October 1, 1996. As necessary, all regulated companies that pay the MCC fee may file tariffs reflecting the .08 percent tax rate.

3. The tax rate for the period October 1, 1995 through September 30, 1996 was also .08 percent. However, a separate order for that period pursuant to § 69-1-224(4), MCA, was not issued. Therefore, those companies that have been recovering less than the .08 percent MCC tax in rates for the period October 1, 1995 to September 30, 1996 may calculate and recover that tax over the period October 1, 1996 through September 30, 1997. Companies already collecting at the .08 percent rate will not be required to change their rates. Companies that are collecting the MCC tax at a rate greater than .08 percent must file new tariffs by October 1, 1996; or, in the

alternative, these companies must accrue the over collection beginning October 1, 1996 and include it with a later tariff change. Such tariff change may not occur later than October 1, 1997.

4. Effective October 1, 1995 the PSC has no jurisdiction over municipal utilities. See §§ 69-7-101 - 201, MCA. Therefore, municipal utilities are not "regulated companies" as defined at § 69-1-401(2), MCA, and are not subject to the MCC tax.

5. Except for regulated companies that are currently recovering the MCC tax at greater than the .08 percent rate, 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, 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). 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, 69-12-201, 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 Section 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. 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, 1995 through September 30, 1997, 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, 1996.

Regulated companies whose rates reflect an MCC tax of greater than .08 percent must either file new rates or accrue the over collection to a later rate change consistent with the Findings in this Order.

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

Done and Dated this 23rd day of September, 1996 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.