Service Date: March 3, 1983

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

* * * * * * * * * * * *

IN THE MATTER of the Petition of) CLARK'S BUS SERVICE, INC., Red) Lodge, Montana, for a Declaratory) Ruling - PSC 3091)	DOCKET NO. T-6933 DECLARATORY RULING ORDER NO. 4530

* * * * * * * * * * * *

On November 29, 1982, the Montana Public Service Commission received a request for declaratory ruling from Clark's Bus Service of Red Lodge, Montana. Clark's inquired as to whether certain charter operations are authorized by its operating authority. Opportunity to comment on the request for declaratory ruling was noticed to interested parties in the Commission's monthly notice.

Clark's holds operating authority pursuant to PSC Certificate No. 3091, the charter portion of which states as follows:

> "Persons and baggage <u>in charter service,</u> as a Class B carrier, (1) between all points and places in Carbon County, Montana; and (2) between all points and places in Carbon County, Montana, on the one hand, and on the other hand all points and places in the state of Montana, subject to the following limitation:
>
> LIMITATIONS: (a) the hiring of charter service must be for the entire vehicle and solicitation of individual passengers to constitute a load is prohibited; (b) the charter trip must originate or terminate in Carbon County, Montana; (c) charter service except to schools, churches, lodges or community and service organizations, is prohibits unless the one-way trip is in excess of ten (10) miles.

The charter operations in question were described by Clark's in its petition as follows:

LIBRARY DOCUMENT
Do Not Remove

> Petitioner's operations include a charter service for Red Lodge Mountain, a ski area located 6 miles South of Red Lodge. The agreement calls for (1) transportation of skiers from Billings, Montana, to the ski area in the morning and (2) at the end of the ski day, transportation of skiers from the area to Billings, Montana. Two distinct types of people are carried: (1) individual skiers who purchase tickets from Red Lodge Mountain for the trip from Billings to Red Lodge Mountain and/or the trip from Red Lodge Mountain to Billings, (2) organized groups who have purchased a package including transportation, lift tickets and instruction.

The above-described operations are clearly charter in nature. In each instance compensation for the transportation is received from Red Lodge Mountain Ski Resort on a flat fee basis regardless of the number of seats occupied.

To be within the limits of Clark's operating authority a charter must originate or terminate in Carbon County, Montana. The question therefore arises as to whether the charter operations in question originate or terminate in Carbon County.

The elements of a charter operation generally involve the arrangement of transportation by one entity for the benefit of a group with a common purpose other than the mere transportation itself. The group will engage in intermittent common activities and the charter will generally conclude with a final transportation leg. This being the case, it would appear that the charter operations in question both begin and end in Billings, Montana. The charter activity begins when the group gets on the bus in Billings and ends when it gets off the bus in Billings.

As the charter operations originate and terminate in Yellowstone County, they do not meet the limitation in Clark's authority that

LIBRARY DOCUMENT
Do Not Remove

"the charter trip must originate or terminate in Carbon County, Montana." The limitation applies to the "charter trip" and not to any particular leg of the charter. Therefore, the Commission must conclude that the charter operations in question are not authorized by Clark's authority.

In issuing this ruling the Commission addresses only the charter operations described in the petition. The Commission has not considered those situations which may involve the solicitation of individual fares. Nor has the Commission attempted to interpret Clark's other certificate of authority authorizing Class B irregular route service.

APPROVED BY THE COMMISSION February 28th, 1983.

Library Use Only
Do Not Remove

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

THOMAS J. SCHNEIDER, Chairman

HOWARD L. ELLIS, Commissioner

CLYDE JARVIS, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

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.

LIBRARY DOCUMENT
Do Not Remove