

Service Date: December 16, 1985

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

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IN THE MATTER of the Complaint of)	TRANSPORTATION DIVISION
Montana Mokko, et al. v. Burlington)	DOCKET NO. T-8793
Northern Railroad Company.)	ORDER NO. 5658

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FINAL ORDER

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APPEARANCES

FOR THE COMPLAINANTS:

John Allen, Attorney, Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana 59620

FOR THE RESPONDENTS:

Gerald A. Troy, Assistant General Counsel, Burlington Northern Railroad, Norwest Center, 175 North 27th Street, Billings, Montana 59101

FOR THE COMMISSION:

Geralyn Driscoll, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

BEFORE:

HOWARD L. ELLIS, Commissioner, Presiding
TOM MONAHAN, Commissioner
DANNY OBERG, Commissioner

BACKGROUND

1. On June 28, 1985, the following shippers filed a complaint with the Montana Public Service Commission (hereinafter Commission) against Burlington Northern Railroad Company (hereinafter BN): Montana Mokko, H.E. Simpson Lumber Co., Equity Supply, Kalispell Feed and Grain, Montana Forest Products, Tri-City Lumber, Inc., B&J Lumber Co., Farmers Union Exchange, Pacific Iron & Steel, McElroy and Wilken, Tobacco Valley Lumber, Kal-Mont Lumber Co., and Kalispell Wood Products. Complainants alleged that BN violated its statutory obligation to maintain and staff adequate station facilities to transact railroad business at Kalispell, Montana. Specifically they alleged that BN violated <<69-14-202 and 69-14-215 Mont. Code Ann. (hereinafter MCA), by instructing BN's Kalispell agent that he was to refer Kalispell shippers to a toll free telephone number to reach the Whitefish Agency and he was not to conduct agency business with them.

2. BN answered on August 13, 1985. Following proper notice, a public hearing was held on October 23, 1985, at the Kalispell City Hall. Testifying for the Complainants were Bob Parmanpar of

Montana Mokko, Charlene O'Neil of Montana Forest Products and Kal-Mont Lumber, and John Hammett of H.E. Simpson Lumber Co. Testifying as a public witnesses were Curt Larson of American Timber Company and Jim Mular of the Brotherhood of Railroad and Airline Clerks. Testifying for BN were Verne Heying, Manager of Station Service for the Western Region, Seattle, Washington, Donald Maze, Assistant Superintendent Transportation Spokane, Washington, and Mark Vanderboom, Director of Operations Analysis, Seattle, Washington. Also present at the hearing to answer questions from the complainants and the Commission was Robert Campbell, Trainmaster, stationed in Whitefish.

3. Following the hearing BN and the Montana Consumer Counsel (hereinafter MCC) entered into the following stipulation:

Burlington Northern Railroad Company hereby stipulates that it will maintain and staff its facilities at Kalispell, Montana, for shipment and delivery of freight. The station agent at Kalispell, Montana, will be available to serve and be of assistance to the public and is authorized to accept bills of lading and car orders from shippers or their agents.

FINDINGS OF FACT

4. Pursuant to ARM 38.2.2105 the Commission finds that the stipulation between BN and MCC resolves this controversy.

CONCLUSIONS OF LAW

1. Burlington Northern has a statutory duty under Section 69-14-202, MCA, to maintain and staff facilities for shipment and delivery of freight in a city or town having a population, according to the last federal census, of not less than 1,000.

ORDER

NOW THEREFORE IT IS ORDERED THAT Burlington Northern shall maintain and staff its facilities at Kalispell, Montana for the shipment and delivery of freight. The station agent at Kalispell, Montana, will be available to serve and be of assistance to the public and is authorized to accept bills of lading and car orders from shippers or their agents.

DONE AND DATED this 16th day of December, 1985 by a vote of

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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield
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 38.2.4806, ARM.