

Service Date: April 29, 1994

FINAL ORDER NO. 6297
DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
1701 Prospect Avenue, P.O. Box 202601
Helena, Montana 59620-2601

IN THE MATTER OF Early Bird Enterprises, Inc., Sheridan, WY, the application for a Montana Intrastate Certificate of Public Convenience and Necessity.)
Docket No. T-93.168.PCN)
Order No. 6297)

The Commission, having taken evidence and being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. On November 24, 1993, Early Bird Enterprises, Inc., P.O. Box 376, Sheridan, WY 82801, filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing transportation of the following:

Class B - Veterinary supplies and medicines, miscellaneous tack and husbandry supplies (no feed), farm machinery parts not exceeding 100 pounds each, pharmaceutical drugs, health and beauty aids and sundries normally marketed through retail drug stores between all points and places in the following counties: Yellowstone, Musselshell, Petroleum, Fergus, Judith Basin, Cascade, Lewis & Clark, Broadwater, Powell, Silver Bow, Jefferson, Madison, Gallatin, Park, Sweet Grass, Stillwater and Carbon.

2. In accordance with Section 69-23-321, MCA, as amended, this matter was noticed to the public December 9, 1993. That notice said in pertinent part:

If no written protests are received by December 29, 1993, a hearing may not be held and a final order may be issued in this Docket. If a protest is received, a hearing will be scheduled. Individual notice of the hearing will be given only to Protestants and Applicant.

The application included affidavits of support.

3. Protests were filed by Bob's Pickup and Delivery, Inc., Billings, Montana; TBB Limited, Inc. dba Billings Yellow Cab, Billings, Montana; Diversified Transfer & Storage, Inc., Billings, Montana; Lanette Walker dba LaCourier, Bozeman, Montana.

4. Notice of Public Hearing was issued February 23, 1994, with hearing scheduled for Wednesday, March 23, 1994, in Helena, Montana.

5. On March 18, 1994, Applicant restrictively amended the application to prohibit transportation which both originates and terminates within Yellowstone County. With that amendment, the protest of TBB, Limited, Inc. was withdrawn.

6. On April 8, 1994, Applicant further restricted the application limiting transportation to a maximum 100 pounds per shipment per consignee. All other protests were withdrawn.

7. The hearing was vacated after notice from the parties that stipulations were pending.

8. The record of this application is available for inspection at the Public Service Commission Office, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Public Convenience and Necessity require a grant of the authority sought by the Applicant.

ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1701 Prospect Avenue, Helena, Montana, on the 19th day of April, 1994, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. T-93.168.PCN, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of **Early Bird Enterprises, Inc., Sheridan, Wyoming**, Montana, for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class B - Veterinary supplies and medicines, miscellaneous tack and husbandry supplies (no feed), farm machinery parts not exceeding 100 pounds each, pharmaceutical drugs, health and beauty aids and sundries normally marketed through retail drug stores between all points and places in the following counties: Yellowstone, Musselshell, Petroleum, Fergus, Judith Basin, Cascade, Lewis & Clark, Broadwater, Powell, Silver Bow, Jefferson, Madison, Gallatin, Park, Sweet Grass, Stillwater and Carbon.

Limitations: (1) Transportation hereunder which both originates and terminates within Yellowstone County is prohibited. (2) Transportation may not exceed 100 pounds per shipment per consignee.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class mail to the applicant and all parties herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 19th day of April, 1994, by a vote of 4 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY McCAFFREE, 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 38.2.4806, ARM.