

Service Date: September 9, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
1701 Prospect Avenue, P.O. Box 202601
Helena, Montana 59620-2601

IN THE MATTER of DON HULETT and) TRANSPORTATION DIVISION
EAST VALLEY TRUCKING, Complaint)
by the Montana Public Service) DOCKET NO. T-93.51.COM
Commission Concerning Motor)
Carrier Operations Without) ORDER NO. 6214b
Authority.)

ORDER CLOSING DOCKET

1. On April 22, 1993 the Montana Public Service Commission (Commission) issued a Notice of Proposed Agency Action (Notice) to Defendant Don Hulett/East Valley Trucking. The Commission proposed taking administrative action against Defendant based on the belief that Don Hulett/East Valley Trucking had been providing regulated motor carrier service for Montana RailLink without proper operating authority.

2. On May 13, 1993 Defendant filed an answer to the complaint and motion to dismiss. Therein Defendant claimed that all movements described in the Notice were lawfully performed under a lease agreement with Keller Transport, Inc. (Keller). The motion to dismiss was subsequently denied and the matter set for hearing.

3. On August 10, 1993 Defendant and Keller jointly filed a

proposed settlement of all issues involved in the performance of transportation service for Montana RailLink by Defendant as well as by Keller prior to the service date of this Order. The settlement provides for the assessment and payment of a \$250.00 civil penalty by Keller and requires Keller to sign and leave on file with the Commission a document by which it agrees to conduct its further operations in full compliance with Commission rules and regulations.

4. Notwithstanding the fact that Keller is already required to conduct its operations in full compliance with Commission rules (Sections 69-12-401 and 402, MCA), the Commission finds that the proposed settlement is acceptable. Keller has approached the Commission voluntarily and the movements described in the complaint when viewed collectively represent the first violations of this type. However, these violations do involve a failure to charge the tariffed rate to Montana RailLink. Therefore, any lost revenues resulting from this failure will be taken into account should Keller file for a rate increase in their petroleum tariff.

CONCLUSIONS OF LAW

1. The Commission is charged with the supervision and reg-

ulation of every motor carrier in the State of Montana. Section 69-12-201, MCA.

2. Keller Transport, Inc. is a motor carrier subject to Commission supervision and regulation.

3. The Commission may impose and collect civil penalties for violations of Title 69 and Commission rules. Section 69-12-108, MCA.

ORDER

NOW THEREFORE IT IS ORDERED that Keller Transport, Inc. pay a \$250 civil penalty in full and complete settlement of all violations of Title 69 and Montana Public Service Commission rules associated with the performance of transportation service for Montana RailLink by Don Hulett, East Valley Trucking, and/or Keller Transport, Inc., prior to the date of this Order.

IT IS FURTHER ORDERED that Keller shall reflect in any application for a rate increase in their petroleum tariff all lost revenues resulting from its failure to charge the tariffed rate to Montana RailLink.

Done and Dated this 30th day of August, 1993 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner

DANNY OBERG, 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.