

Service Date: May 1, 1989

## FINAL ORDER NO. 5928

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application of )	DOCKET NO. T-9343
ZIMMERMAN TRUCKING, INC., Wolf Point, )	
Montana, for a Montana Intrastate )	
Certificate of Public Convenience and )	ORDER NO. 5928
Necessity. )	

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

FINDINGS OF FACT

1. On December 19, 1988, Zimmerman Trucking, Inc., Box 876, Highway #2, Wolf Point, Montana 59201, filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing the transportation of general commodities, bulk, sacked, packaged, or liquids (except Class A & B explosives and used household goods), Class B, from any Indian Reservation in Montana on the one hand to all points in Montana on the other hand; and from all points in Montana on the one hand to any point on an Indian Reservation in Montana on the other hand; except for petroleum and petroleum products, which shall be from all points in Montana to all points in Montana.

2. In accordance with Section 69-23-321, MCA, as amended, this matter was noticed to the public January 6, 1989. That notice said in pertinent part:

If no written protests are received by January 26, 1989, 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 Robert J. Wimett dba Wimett Trucking, Missoula, Montana; Montana Carriers, Inc., Billings, Montana; Suhr Transport, Great Falls, Montana; H.F. Johnson, Inc., Billings, Montana; Molerway Freight Lines, Inc., Billings, Montana; Black Hills Trucking, Inc., Casper, Wyoming; Americana Expressways, Inc., Great Falls, Montana; Hornoi Transport, Inc., Laurel, Montana; Watkins and Shepard Trucking, Inc., Missoula, Montana; Yellowstone Molasses Service, Inc., Billings, Montana; Willard R. and Leta F. Drinkwalter dba W.R. Drinkwalter & Sons Trucking, Billings, Montana; Bob Boyd Trucking, Inc., Livingston, Montana; Getter Trucking, Inc., Billings, Montana; Dixon Bros., Inc., Newcastle, Wyoming; Paraffin Service, Inc., Sidney, Montana; Keller Transport, Inc., Billings, Montana; Robert L. Bell dba Bob's Pickup and Delivery, Sidney, Montana; and Williston-Scobey Transfer, Plentywood, Montana.

4. The docket was noticed for public hearing on March 3, 1989, with the public hearing scheduled for Tuesday, April 4, 1989, in the Commission offices, 2701 Prospect Avenue, Helena,

Montana.

5. At the commencement of the hearing, Applicant's counsel requested a recess to discuss proposed stipulations with Protestants. The Commission granted Applicant's motion. All parties thereafter stipulated to the following grant of authority:

CLASS B:

1. All general commodities (except Mercer-type commodities as defined in Mercer- Extension, 74 MCC 459, Classes A & B explosives, and used household goods), between points in Montana, on the one hand, and, on the other, any point on any Indian Reservation in Montana.

LIMITATIONS: The transportation of the following is prohibited:

- (a) U.S.D.A. donated foods under contract with the Office of Public Instruction for the school lunch program; and
- (b) alcoholic beverages, associated advertising and liquor store supplies (not including store fixtures or equipment) under contract with the Department of Revenue, Liquor Division; and
- (c) shipments per consignee of general commodities of 25,000 pounds or less; and
- (d) petroleum and petroleum products, water, cement, and chemicals, all in bulk; and
- (e) feed and molasses; and
- (f) commodities, which because of their size and weight require the use of special equipment; and
- (g) bulk fly ash, to or from Missoula, Ravalli, Granite, Powell, Lincoln, Flathead, Sanders, Lake, Deer Lodge, Mineral, Silver Bow, Lewis and Clark, and Glacier Counties; and
- (h) ore, to or from Missoula and Granite Counties; and
- (i) construction equipment, in excess of 500 pounds, from all points in Montana to points in Montana west of the Continental Divide; and
- (j) transportation service from points in Montana

west of the Continental Divide to all points in Montana.

2. Mercer-type commodities, as defined in Mercer Extension, 74 MCC 459, in truckload lots of 7,000 pounds or less, between points in Montana, on the one hand, and, on the other, any point on any Indian Reservation in Montana.

6. No testimony was taken at the hearing.

7. The record of this application is available for inspection at the Public Service Commission Office, 2701 Prospect Avenue, 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 2701 Prospect Avenue, Helena, Montana, on the 1st day of May, 1989, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. T-9343, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of ZIMMERMAN TRUCKING, INC., Wolf Point, Montana, for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class B:

1. All general commodities (except Mercer-type commodities as defined in Mercer- Extension, 74 MCC 459, Classes A & B explosives, and used household goods), between points in Montana, on the one hand, and, on the other, any point on any Indian Reservation in Montana.

LIMITATIONS: The transportation of the following is prohibited:

- (a) U.S.D.A. donated foods under contract with the Office of Public Instruction for the school lunch program; and
- (b) alcoholic beverages, associated advertising and liquor store supplies (not including store fixtures or equipment) under contract with the Department of Revenue, Liquor Division; and
- (c) shipments per consignee of general commodities of 25,000 pounds or less; and
- (d) petroleum and petroleum products, water, cement, and chemicals, all in bulk; and
- (e) feed and molasses; and
- (f) commodities, which because of their size and weight require the use of special equipment; and
- (g) bulk fly ash, to or from Missoula, Ravalli, Granite, Powell, Lincoln, Flathead, Sanders, Lake, Deer Lodge, Mineral, Silver Bow, Lewis and Clark, and Glacier Counties; and
- (h) ore, to or from Missoula and Granite Counties; and
- (i) construction equipment, in excess of 500 pounds, from all points in Montana to points in Montana west of the Continental Divide; and
- (j) transportation service from points in Montana west of the Continental Divide to all points in Montana.

2. Mercer-type commodities, as defined in Mercer Extension, 74 MCC 459, in truckload lots of 7,000 pounds or less, between points in Montana, on the one hand, and, on the other, any point on any Indian Reservation in Montana.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by certified mail to the Applicant 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 1st day of May, 1989, by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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CLYDE JARVIS, Chairman

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HOWARD L. ELLIS, Vice Chairman

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JOHN B. DRISCOLL, Commissioner

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DANNY OBERG, Commissioner

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WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Purcell  
Acting 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.