

Service Date: February 23, 1990

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

* * * * *

IN THE MATTER of Emergency Motor) TRANSPORTATION DIVISION
Carrier Freight Rate Increases) DOCKET NO. T-9510
because of Rising and Increased Fuel Costs.) ORDER NO. 5983

FINAL ORDER

PROCEDURE

1. This matter was noticed for hearing January 30, 1990. Hearing was held at the time and place designated, on February 16, 1990. No opposition appeared at the hearing. No comments in opposition have otherwise been received.

FINDINGS OF FACT

2. The recently increased fuel prices occurring to motor common carriers in the intrastate transportation of property and passengers have resulted in financial hardship to some carriers in Montana.

3. The average increase in fuel expenses, including taxes, has increased such carriers' costs requiring an increase in operating revenues. There is an urgent need for immediate relief in order that such carriers may recoup such increased costs.

4. It is evident that carriers under this Commission's jurisdiction are in need of a procedure whereby rate relief due to increased fuel costs should be afforded carriers notice.

DISCUSSION

5. The Commission does not choose to designate a specified method of demonstrating justification for proposed increases, but will rule on the justification methods utilized by carriers on a case-by-case basis.

6. Proposed rate revisions, if justified, may become effective on less than 45 day's notice as per the provisions of 69-12-50, MCA. Carriers should take notice, however, that this will be an extraordinary procedure adopted by the Commission, and will, in turn, place an extraordinary burden on them. One example is the time for implementation. The

Commission contemplates that all surcharge requests shall carry an effective date no less than two working days following a regularly scheduled Commission agenda meeting.

7. All tariff sheets and accompanying justification must be received in the Commission office no later than 5:00 p.m. the Wednesday prior to the regularly scheduled agenda date. A facsimile of the proposed tariff page and justification is acceptable to meet this deadline, with a true and correct copy of all facsimiles material to follow within 10 days by regular mail.

8. For example, if a carrier mails to the Commission a fuel surcharge tariff sheet(s) on Monday, February 5th, with an anticipated effective date of February 14, BUT the sheets are not received by the Commission until Thursday February 8, then it will not be considered by the Commission until the following Monday (February 19) and there can be no effective date prior to February 21. In other words, the Commission wants time to examine the justification submitted before it will act on the carriers request. Requiring applications to be filed with the Commission by the Wednesday before the Commission's regular Monday meeting does not place an onerous burden on the carriers.

CONCLUSIONS OF LAW

1. The Commission may, for good cause shown, allow carriers to implement rate increases on less than the 45 day's notice. 69-12-504, MCA.

ORDER

1. All such carriers or their authorized publishing agents having tariffs or schedules on file with the Montana Public Service Commission, or those carriers or agents that may in the future file with the Montana Public Service Commission are hereby authorized to depart from the terms of the governing tariff rules and Administrative Rules and Regulations of this Commission, to file and post on not less than two day's notice (see Par. 3 below) to the Commission and the public an increase in passenger fares and freight charges for line-haul transportation and charges for other services which consume fuel, such as pick-up and delivery, which must be specified in the tariffs, as may be justified from data submitted.

2. The surcharge filed and posted under the authority of this order may take the form of Master Tariff of Increase, or as a Supplement to the affected tariffs. If the master

tariff form of publication is to be employed, reference thereto will be made by connecting link supplement to each tariff (to be made subject to the master tariff), connecting such tariff with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs), provided each copy officially filed is hand marked in the appropriate places as to the supplement number and the PSC number of the tariff it supplements.

3. Those carriers seeking fuel cost increases are not limited to any particular methodology as regards the justification submitted with their application. The Commission will examine said justification and rule on same on a case-by-case basis. Tariff sheet submittal and justification accompanying same should carry an effective date no less than two working days following a regularly scheduled agenda.

4. The person actually responsible for the payment of fuel charges, by contract or otherwise, is to receive the full increase in revenue derived from surcharges published hereunder. Each publication containing the surcharge shall contain whichever of the following certifications as appropriate:

This is to certify that each carrier party to this publication has been notified that: Authorization MC-2727 requires that the person actually responsible, by contract or otherwise, for the payment of fuel charges is to receive the full increase in revenue derived from surcharges published thereunder, and that a carrier's participation in a publication filed thereunder constitutes an undertaking to comply with that requirement.

or

This is to certify that the person actually responsible, by contract or otherwise, for the payment of fuel charges will receive the full increase in freight revenue to be derived from the proposed surcharge.

5. Publications issued and filed hereunder shall be exempt from the supplemental and volume limitations of the Commission's tariff rules, shall contain no other matter and shall bear the following notation:

Issued less than 45 day's notice, MT P.S.C. Authorization No. MC-2727.

6. Only one surcharge as to a tariff may be in effect at one time, and any surcharge filed under authority of this authorization shall not provide for any exceptions (nonapplication) with respect to any particular traffic.

7. The surcharge provisions must include a rule for disposition of fractions of one cent or other stated amounts or refer to a conversion table of increased charges or fares.

8. All tariffs or supplements filed under this authorization will contain an expiration date within 60 calendar days of their effective date.

9. All justification submitted to this office must be based on current fuel cost during a 90 day study period. Justification submitted after October 15, 1990 may use a date in July 1990 as the base date for fuel cost comparisons. That 90 day study period will end no sooner than one week prior to the day the surcharge request is submitted to this office.

10. All freight bills will note fuel surcharges separate from any other freight charges.

11. This authorization for filing fuel surcharge increases on short notice will remain in effect until March 5, 1991, unless ruled otherwise by the Commission.

12. All parts of the DISCUSSION included above are adopted herein as an ORDER, to the extent that the same are not inconsistent with the foregoing provisions of this ORDER.

IT IS FURTHER ORDERED that a full, true and correct copy of this Order be sent forthwith by first class mail, postage prepaid, to known interested parties.

Done and Dated this 1st day of October, 1990 by a vote of 5-0

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD. ELLIS, Chairman

DANNY OBERG, Vice Chairman

JOHN B. DRISCOLL, Commissioner

REX MANUEL, Commissioner

WALLACE W. "WALLY" MERCER,

Commissioner
ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.