

At the meeting of the Public Service Commission of the State of Montana held at the Commission's Offices in Helena, Montana, on Tuesday, May 25, 2004, the following members were present:

Bob Rowe, Chairman  
Thomas J. Schneider, Vice Chairman  
Matt Brainard, Commissioner (via telephone)  
Greg Jergeson, Commissioner  
Jay Stovall, Commissioner

APPEARANCE

Wayne Budt, Administrator  
Transportation & Centralized Services Division

(185) In the matter of T-04-22 AR: On April 30, 2004 an Order to Show Cause was issued to Gerald Paul Clark dba Andy's Motor Freight, Anaconda, Montana, PSC No. 1453, for failure to file a 2003 Annual Report. The Order to Show Cause was sent via certified mail and returned to this office unclaimed. No report has been filed.

Commissioner Stovall moved to cancel PSC No. 1453. Commissioner Jergeson seconded the motion, which passed unanimously.

(186) In the matter of T-04.37.AR: On April 30, 2004 an Order to Show Cause was issued to James H. and Joan P. Michael dba Airport Shuttle Service, Kalispell, Montana as owner/lessor of PSC No. 3664 and Flathead Area Custom Transportation, Inc. dba Kalispell Taxi and Airport Shuttle Service, Kalispell, Montana as lessee/operator for failure to file a 2003 Annual Report. This Order to Show Cause was sent to the parties by certified mail and received by them on May 3 and May 7, respectively. No report has been filed.

Commissioner Stovall moved to cancel PSC No. 3664. Commissioner Jergeson seconded the motion, which passed unanimously.

(187) In the matter of T-04.38.AR: On April 30, 2004 an Order to Show Cause was issued to David R. Colbrese dba Glendive Taxi, Glendive, Montana, PSC No. 9440, for failure to file a 2003 Annual Report. The Order to Show Cause was sent via certified mail and received by the carrier on May 3, 2004. No report has been filed.

Commissioner Brainard moved to cancel PSC No. 9440. Commissioner Jergeson seconded the motion, which passed unanimously.

(188) In the matter of T-04.39.AR: On April 30, 2004 an Order to Show Cause was issued to Marvin R. Black, Jr. dba Shelby Services, Shelby, Montana, PSC No. 9442, for failure to file a 2003 Annual Report. This report was sent via certified mail and received by the carrier on May 1,

2004. No report has been filed.

Commissioner Schneider moved to cancel PSC No. 9442. Commissioner Stovall seconded the motion, which passed unanimously.

(189) In the matter of T-04.18.OTSC: On April 29, 2004 an Order to Show Cause was issued to Carl James Asimus and Joshua Harlow Stevens, a partnership dba Sumisa, Livingston, Montana, PSC No. 9438, for failure to reactivate following 12 months of continuous suspension. This Order to Show Cause was sent via certified mail and there has been no response from the carrier.

Commissioner Brainard moved to cancel PSC No. 9438. Commissioner Schneider seconded the motion, which passed unanimously.

(190) In the matter of the approval of Commission Minutes; Commissioner Stovall moved to approve the Commission Minutes for the week of May 17, 2004. Commissioner Jergeson seconded the motion, which passed unanimously.

#### APPEARANCE

Monica Tranel, Legal Division  
Mike Lee, Utility Division

(191) In the matter of the Commission's discussion of FCC VOIP Rulemaking in FCC WC Docket 04-36;

Commissioner Schneider moved to authorize the filing of comments in the VOIP Rulemaking in the FCC WC Docket 04-36 and request that staff circulate a draft for final action by the Commission at a work session to be held Thursday at 1 p.m. Commissioner Jergeson seconded the motion, which passed unanimously.

(192) In the matter of the Commission's discussion of matters concerning Intercarrier Compensation:

Commissioner Jergeson moved to issue a Notice of Inquiry with necessary edits. Commissioner Schneider seconded the motion, which passed unanimously.

(193) In the matter of the Commission's discussion of Ronan, Hot Springs, MITS and MTA carriers - Docket No. D2004.3.39:

Commissioner Jergeson moved to grant Hot Springs and Ronan objections to Qwest intervention and to deny Hot Springs objections to Western Wireless. Commissioner Stovall seconded the motion, which passed unanimously.

Commissioner Jergeson moved to grant Ronan's motion to incorporate records of prior cases, that have not already been incorporated, into Docket No. D2004.3.39. Commissioner Schneider

seconded the motion, which passed unanimously.

Commissioner Jergeson moved to deny the motion to amend the procedural schedule to include post hearing reply briefs without prejudice. Commissioner Stovall seconded the motion, which passed 4-1. Commissioner Schneider dissented.

Commissioner Schneider moved to grant the motion and revise the procedural schedule as described by staff to allow three business days to file objections and three business days to file responses and indicating that the determination will be made consistent with Montana Rules of Civil Procedure. Commissioner Jergeson seconded the motion, which passed unanimously.

Commissioner Schneider moved to grant the motion to clarify the procedural schedule to delete the sentence that refers to electronic filing. Commissioner Stovall seconded the motion, which passed unanimously.

APPEARANCE

Monica Tranel  
Legal Division

(194) In the matter of the Commission's discussion of the process to handle Interconnection agreements post USTA II:

Commissioner Schneider moved to issue a notice of the proposed Covad/Qwest amendment for comments to be due within 15 days and for Commission action within 30 days. Commissioner Stovall seconded the motion, which passed unanimously.

Commissioner Schneider moved to issue an order to show cause why interconnection agreements should not be filed in the voluntarily entered into agreements post USTA II. Commissioner Jergeson seconded the motion, which passed unanimously.

APPEARANCE

Phil Cooke  
Utility Division

(195) In the matter of the Commission's discussion of MCI's Petition for Waiver of ARM 38.5.3371(3)(a):

Commissioner Jergeson moved to deny MCI's petition for waiver but require compliance by August 1, 2004. Commissioner Rowe seconded the motion, which passed unanimously.

APPEARANCE

Martin Jacobson  
Legal Division

(196) In the matter of the Commission's discussion of Phantom Hills Water Company, Inc. - Docket No. D2004.4.61:

Commissioner Stovall moved to issue a Notice of Filing with an initial interim rate approval. Commissioner Jergeson seconded the motion, which passed unanimously.

APPEARANCE

Robin McHugh, Administrator  
Legal Division

(197) In the matter of the Commission's discussion of the PSC investigation of electricity market activity affecting retail customers during 2000-2001 - Docket No. D2004.2.21:

Commissioner Schneider moved to modify the draft procedural order to reflect August 25 as the response date to initial discovery and modify the remaining procedural order to reflect the extension. Commissioner Jergeson seconded the motion, which passed unanimously.

APPEARANCE

Al Brogan  
Legal Division

(198) In the matter of the Commission's discussion of NorthWestern Energy (NWE) Bankruptcy:

Commissioner Schneider moved to authorize an amendment to the contract for outside legal counsel in regard to the NorthWestern Energy Bankruptcy to a cap of \$310,000.00. Commissioner Jergeson seconded the motion, which passed unanimously.

There being no further business to come before the Commission the meeting was adjourned.

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BOB ROWE, Chairman

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THOMAS J. SCHNEIDER, Vice Chairman

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MATT BRAINARD, Commissioner

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GREG JERGESON, Commissioner

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JAY STOVALL, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)