

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

| | | |
|--|---|-----------------------|
| IN THE MATTER OF the Complaint of |) | |
| DR. PAUL WILLIAMSON, REV. DR. VERN |) | UTILITY DIVISION |
| KLINGMAN, PATRICIA KLINGMAN & |) | |
| RUSSELL L. DOTY, on Behalf of Themselves |) | |
| & Others Similarly Situated, |) | |
| |) | DOCKET NO. D2010.2.14 |
| Complainants |) | |
| |) | ORDER NO. 7084b |
| v. |) | |
| |) | |
| NORTHWESTERN ENERGY, |) | |
| |) | |
| Defendant |) | |

ORDER DENYING MOTION FOR RECONSIDERATION

FINDINGS OF FACT

Background

1. On February 11, 2010, the Montana Public Service Commission (Commission) was in receipt of a formal complaint from Paul Williamson, Vern Klingman, Patricia Klingman and Russell Doty (Complainants) against NorthWestern Energy (NWE). Complainants contend, among other things, that NWE's street lighting tariff ownership charges are excessive, unreasonable, and unjustly discriminatory.
2. On February 25, 2010, the Commission served its Notice of Complaint on NWE calling upon NWE to satisfy or answer the complaint in writing within twenty days of service (citing ARM 38.2.2101-38.2.2107).
3. On March 17, 2010, NWE filed its Answer to the formal complaint.
4. On March 22, 2010, NWE filed its Motion to Dismiss and Brief in Support.

5. On April 2, 2010, Complainants filed their Motions to Compel Answer, to Strike Defenses & to Prevent Fees for Respondent's Attorney from Being Paid by Consumers (Motions) with an accompanying Affidavit and Brief in Support of Complainants' Motions (Complainants' Motions are addressed in a separate Commission order). Complainants also filed on April 2, 2010, an affidavit and brief in opposition to NWE's Motion to Dismiss.

6. On May 12, 2010, the Commission issued Order No.7084 addressing Complainants' Motion to Compel Answer, To Strike Defenses & to Prevent Fees For Respondent's Attorney from Being Paid by Consumers.

7. On May 20, 2010, the Commission issued Order No. 7084a addressing Respondent-NWE's Motion to Dismiss. Order No. 7084a dismissed the formal complaint on the basis of lack of standing of Complainants to bring the action. An errata to Order No. 7084a was issued on May 21, 2010.

8. On June 2, 2010, Complainants filed their Motion for Reconsideration of Order No. 7084a.

Ruling/Analysis

9. The provisions of ARM 38.2.4806 govern requests for reconsideration and subsection (1) of this section provides as follows:

"(1) Motion for Reconsideration. **Within ten days after an order or decision has been made by the commission**, any party may apply for a reconsideration in respect to any matter determined therein. Such motion shall set forth specifically the ground or grounds on which the movant considers said order or decision to be unlawful, unjust or unreasonable.

10. Ten days subsequent to issuance (on May 21, 2010) of the errata to Order No. 7084a falls on May 31, 2010, the Memorial Day holiday, therefore, the ten-day deadline carries over to the next business day, or June 1, 2010. Complainants Motion for Reconsideration was therefore not timely filed as it was received by the Commission on June 2, 2010. Complainants neither sought, nor did they secure an extension of time within which to file their reconsideration request. The Commission will not consider the reconsideration request as it was not timely filed.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission has jurisdiction over this formal complaint through the provisions of the Montana Administrative Procedure Act (§§ 2-4-601, *et seq.*), Title 69, MCA, specifically §§ 69-3-321, 69-3-201, 69-3-301, and 69-3-304, MCA.
2. Complainants Motion for Reconsideration is DENIED as it was not timely filed.

ORDER

As Complainants' Motion for Reconsideration was not timely filed, the Commission will not consider the filing and the reconsideration request is therefore DENIED.

DONE AND DATED this 15th day of June 2010 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chair

KEN TOOLE, Vice Chair

GAIL GUTSCHE, Commissioner

BRAD MOLNAR, Commissioner

JOHN VINCENT, Commissioner

ATTEST:

Verna Stewart
Commission Secretary

(SEAL)

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