

FILED
GREAT FALLS, MONT.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF MONTANA
BUTTE DIVISION

2010 FEB 10 PM 4 13

PATRICK E. RUFFY, CLERK
BY _____

IN RE TOUCH AMERICA
HOLDINGS, INC. ERISA LITIGATION

Case No. CV 02-106-BU-SEH CLERK

This Document Relates To: ALL
ACTIONS

**ORDER
APPOINTING INDEPENDENT
FIDUCIARY IN CONNECTION
WITH PROPOSED ERISA
SETTLEMENT**

Having reviewed Plaintiffs' Motion for Approval of Class Notice and to Set Fairness Hearing and Related Deadlines and the papers filed in connection therewith, and good cause appearing, it is hereby ORDERED as follows:

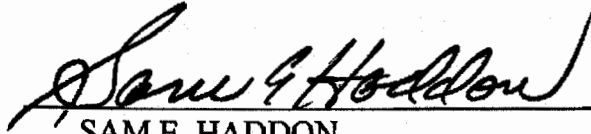
1. The Court appoints Nicholas J. Saakvitne as the Independent Fiduciary to perform a series of tasks in connection with (i) the Court's consideration of the proposed Settlement of this action and (ii) the execution of the proposed Settlement if in fact this Court grants Final Approval to that Settlement. Mr. Saakvitne is recommended by Class Counsel, and the Court finds that Mr. Saakvitne is well-qualified to perform these tasks in light of his extensive experience in serving as a Trustee and Independent Fiduciary for ERISA plans, including service as Independent Fiduciary for prohibited transaction exemption determinations such as the one he will undertake in this

matter, and service in overseeing the termination of orphan retirement plans such as he will undertake here in the event the proposed Settlement obtains Final Approval.

2. Mr. Saakvitne shall review the proposed Settlement under the parameters established by the Department of Labor's Prohibited Transaction Class Exemption 2003-39. In so doing, as required by the Department of Labor, Mr. Saakvitne will make determinations as to whether: (i) the Settlement is reasonable in light of the likelihood of full recovery by the Montana Power Company 401(k) Retirement Savings Plan (the "Plan"), the risks and costs of litigation, and the value of the claims foregone; (ii) the terms and conditions of the transaction are no less favorable to the Plan than comparable arms-length terms and conditions that would have been agreed to by unrelated parties under similar circumstance; and (iii) the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest to the Plan. Mr. Saakvitne has agreed to perform these tasks for the sum of \$25,000. These costs will be paid by the Defendants as they become due, and will be deducted from the \$4.9 million Class Settlement Amount.

3. In the event that the proposed Settlement obtains Final Approval, and the Effective Date of the Settlement occurs, Mr. Saakvitne shall serve as the Independent Fiduciary for the purposes of effectuating the distribution of the Net Settlement Amount. Mr. Saakvitne shall: (i) oversee the resuscitation of the Plan; (ii) perform all tasks as may be necessary to maintain the qualified tax status of the Plan, including filing necessary reports with the Department of Labor; (iii) serve as Trustee for the Trust of the resuscitated Plan (which will be funded with the Net Settlement Amount); (iv) oversee the distribution to Plan participants or their successors-in-interest; (v) oversee the transfer of any unclaimed Plan participants' Settlement recoveries to Rollover Systems, Inc., or a comparable organization that will maintain individual retirement accounts in the names of such Plan participants and continue to attempt to locate them; (vi) properly terminate the resuscitated Plan and (vii) perform such other tasks as he may deem necessary to protect the interests of the Plan and its participants. Mr. Saakvitne has agreed to perform these tasks for the additional sum of \$25,000. These costs will be paid out of the \$4.9 million Class Settlement Amount.

DATED this 10th day of February, 2010.



SAM E. HADDON
United States District Judge