

Service Date: September 26, 2001

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

INTHE MATTER OF the Investigation into)	UTILITY DIVISION
Qwest Corporation's Compliance with Track A)	DOCKET NO. D2001.8.103
of Section 271 of the Telecommunications)	(Docket No. D2000.5.70)
Act of 1996)	ORDER NO. 6372

PROTECTIVE ORDER

Background

On August 2, 2001 the Montana Public Service Commission (Commission) issued a Commission Notice and Investigation (CNI) in this docket in an effort to procure certain information from CLECs that would enable the Commission to determine whether Qwest Corporation (Qwest) has met the requirements of 47 U.S.C. § 271(c)(1)(A), as part of its 47 U.S.C. § 271 filing with the Commission in Docket No. D2000.5.70. In the CNI the Commission asked CLECs 12 “survey questions” and asked that responses be provided by August 30, 2001.

On August 16, 2001 AT&T Communications of the Mountain States (AT&T) filed a Motion for Extraordinary Protective Order, arguing that the information requested in the CNI is especially sensitive and requires protection beyond that provided in Protective Order No. 6254a, Docket No. D2000.5.70.¹ In addition, Montana Wireless, dba Blackfoot Communications, expressed its concern informally over a response to the CNI, and has withheld its response pending issuance of an appropriate protective order.

Discussion

The Commission agrees with AT&T that the CNI solicits information that may be especially sensitive and could be confidential and subject to protection from public disclosure pursuant to Montana law. Therefore, the Commission grants protection for information supplied pursuant to the CNI survey as follows: Information provided by AT&T, Montana Wireless, and other CLECs in

¹ AT&T's August 16, 2001 Motion reflects some, perhaps understandable, confusion. The Motion was filed in Docket No. D2000.5.70 (the Montana Qwest 271 docket) in response to “informal discovery requests from Qwest.” Those informal requests were formalized in the CNI, in a separate docket. Apparently, when AT&T realized this it filed an Objection to Track A Survey Questions on August 30, 2001, to which it attached the Motion for Extraordinary Protective Order. This Protective Order responds to both AT&T filings and covers survey responses, as well as certain informal discovery requests in D2000.5.70, to the extent those are still relevant. It may have been easier for the Commission to issue the CNI under D2000.5.70.

response to the CNI survey questions, Docket No. D2001.8.103, will be available only to Commissioners, one Commission staff attorney, one Commission staff economist, the Montana Consumer Counsel, and one attorney designated by Qwest.

Order

The Commission responds to AT&T's Motion as discussed above; the Commission responds to other concerns on its own motion as discussed above; the Commission orders that information submitted in response to the CNI be treated, in accordance with this Order, as "confidential information" under the terms of this Order and ARM 38.2.5001 – 5030. Aggregated information derived from the company specific information provided in response to the CNI survey is not covered by this Order. Aggregated information, as necessary, will be made part of the record in D2000.5.70. To the extent there is a conflict between the terms of this Order and ARM 38.2.5001 – 5030, the terms of this Order control.

DONE AND DATED this 5th day of September, 2001, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman

JAY STOVALL, Vice Chairman

BOB ANDERSON, Commissioner

MATT BRAINARD, Commissioner

BOB ROWE, Commissioner

ATTEST:

Rhonda J. Simmons
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Nondisclosure Agreement

ARM 38.2.5012

Docket No. D2001.8.103

Order No. 6372

Order Action Date 9/5/01

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented