

Service Date: June 3, 2004

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

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IN THE MATTER OF the Commercial Line Sharing	)	UTILITY DIVISION
Agreement for DSL Services Provisioned After	)	
October 1, 2004, Between Qwest and DIECA	)	DOCKET NO. D2004.6.89
Communications, Inc.,	)	
d/b/a Covad Communications	)	ORDER NO. 6572

**ORDER TO SHOW CAUSE  
AND REQUEST FOR INFORMATION**

On May 25, 2004, at a regularly scheduled work session, the Montana Public Service Commission (“Commission” or “PSC”) took action in the above captioned matter. Qwest and Covad filed their agreement with the Commission on May 19, 2004, with a cover letter indicating that the agreement was being filed for informational purposes only and is not subject to the filing requirements contained in 47 U.S.C. §252.

Incumbent local exchange carriers have the duty to provide, and the additional duty to negotiate an agreement to provide, interconnection, services, and network elements to a requesting telecommunications carrier. 47 U.S.C §§ 251 and 252. Interconnection agreements adopted by negotiation or agreement are to be submitted to the State Commission for review and approval. 47 U.S.C. § 252(e). Local exchange carriers are obligated to make available any interconnection, service or network element provided under an agreement approved under this section to any other requesting telecommunication carrier upon the same terms and conditions. 47 U.S.C. §252(i).

Qwest and Covad have negotiated what they describe as a “Commercial Line Sharing Agreement” relating to the provision by Qwest to Covad of the high frequency portion of the copper loop to provide digital subscriber line (DSL) services to Covad’s end user customers. Qwest and Covad have submitted the agreement as “informational only,” intending that it not be subject to the Commission’s review and approval.

The Commission directs Covad and Qwest to make a filing or filings to explain their position that the agreement should not be filed and considered by the Commission under the provisions of 47 U.S.C. §§ 251 and 252. Such filings must be made on or before June 18, 2004.

The Commission also requests from any interested party comments in response to the question of whether or not the agreement negotiated by Qwest and Covad is subject to the provisions of 47 U.S.C. §§ 251 and 252.

A copy of the agreement that has been filed is available for inspection at the business offices of Qwest, the PSC, and the Montana Consumer Counsel (MCC). The MCC, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, telephone (406) 444-2771, is available and may be contacted to assist and represent the interests of the consuming public in this matter.

Any interested person may submit written public comments on the matter to the PSC at the above address. Public comments may also be submitted to the PSC through the PSC's web-based comment form at <http://psc.state.mt.us>. Public comments, written or electronic, must be submitted no later than June 18, 2004.

The PSC's jurisdiction over this matter is provided at 47 U.S.C. §§251 and 252, Title 69, MCA, specifically §69-3-831 et seq. The substantive and procedural law applicable is Title 69, MCA, especially at Ch. 3 (public utilities), ARM Title 38, Ch. 5 (utilities), Title 2, Ch. 4, MCA (MAPA), ARM Title 38, Ch. 2 (PSC procedural rules), and any prior orders of the PSC which may bear on the issues presented.

The PSC initially notices proceedings through use of general service lists. Interested persons wishing to remain on the service list to receive notices and orders must notify the PSC in writing by June 18, 2004. Failure to submit notification will result in removal from the service list in this docket.

**THEREFORE, IT IS HEREBY ORDERED,**

1. No later than June 18, 2004, Covad and Qwest shall file a pleading or pleadings explaining why the commercial agreement is not an agreement to be filed and considered by the Commission under the provisions of 47 U.S.C. §§251 and 252.

2. Any interested parties may file comments as to why the commercial agreement submitted by Qwest and Covad is not an agreement to be filed and considered by the Commission under the provisions of 47 U.S.C. §§251 and 252.

Done and Dated this 25<sup>th</sup> day of May, 2004 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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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)

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