

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

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IN THE MATTER OF the Application)	
of AMCOM, LLP and U S WEST)	UTILITY DIVISION
Communications, Inc., Pursuant to Section 252(e))	DOCKET NO. D97.2.31
of the Telecommunications Act of 1996 for)	
Approval of their Resale Agreement.)	ORDER NO. 5980a

and

IN THE MATTER OF the Application)	
of Max-Tel Communications, Inc. and U S WEST)	UTILITY DIVISION
Communications, Inc., Pursuant to Section 252(e))	DOCKET NO. D97.2.32
of the Telecommunications Act of 1996 for)	
Approval of their Resale Agreement.)	

ORDER APPROVING FIRST AMENDMENT TO RESALE AGREEMENT

AMCOM, LLP (AMCOM) and U S WEST Communications, Inc. (U S WEST), and Max-Tel Communications, Inc. (Max-Tel) and U S WEST, negotiated their respective resale agreements pursuant to § 251 of the Telecommunications Act of 1996 (1996 Act).¹ They filed the agreements with the Montana Public Service Commission (Commission) for approval pursuant to § 252 of the 1996 Act. The agreements are entitled "Agreement for Service Resale." On March 4, 1997, the Commission consolidated the AMCOM and Max-Tel agreements in one proceeding. The Commission approved the agreements in Order No. 5980 on April 29, 1997, with the exception of one provision.

The Commission rejected the third paragraph of Section IV.C.2 on page seven of both agreements because it was not consistent with the public interest, convenience, and necessity.

¹Pub. L. No. 104-104, 110 Stat. 56 (*amending the Telecommunications Act of 1934 and to be codified as amended in scattered sections of 47 U.S.C.*).

This provision raised questions concerning consumer privacy and would have restricted the transfer of customers between the parties if a subscriber's account was in arrears. Further, there was no definition of the term "arrears" included in the contract.

The Commission also required corrections to the agreements to conform to Montana law. These corrections related to the incorrect use of the term "certified reseller." Montana law does not permit certification of telecommunications providers; rather, it provides for the registration of all telecommunications providers in § 69-3-805, MCA.

U S WEST and AMCOM executed their "First Amendment to Agreement for Service Resale" dated August 31, 1997 and filed the amendment with the Commission on December 12, 1997. U S WEST and Max-Tel executed their "First Amendment to Agreement for Service Resale" dated July 28, 1997, also filed on December 12, 1997. The amendments remove the term "Certified Reseller" from the first sentence of the Agreements, replace the definition of "reseller" in Section III.G to remove references to certification, and delete Section IV.C.2 which restricted the transfer of subscribers between the parties. The Commission concludes that the amendment complies with Order No. 5980 in this Docket.

THEREFORE, based on the foregoing, IT IS ORDERED that the First Amendment to Agreement for Service Resale between U S WEST and AMCOM and the First Amendment to Agreement for Service Resale between U S WEST and Max-Tel are APPROVED.

DONE AND DATED this 17th day of February, 1998, by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
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.