

Service Date: June 7, 2000

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

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IN THE MATTER of the Inquiry on)	UTILITY DIVISION
MONTANA POWER COMPANY and its)	
Affiliate TOUCH AMERICA, INC., Related to)	DOCKET NO. N2000.5.76
Fiber-Optic Routes)	ORDER NO. 6253

PROTECTIVE ORDER

By letter dated May 16, 2000 from the Montana Public Service Commission (Commission), Commissioner Bob Anderson submitted data requests in N2000.5.76 to Montana Power Company (MPC), related to the fiber-optic miles of MPC's affiliate, Touch America. On May 26, 2000, MPC and Touch America requested an order protecting information submitted in response to Commissioner Anderson's data requests. Touch America maintained that unprotected disclosure of the information may result in harm to Touch America's bargaining position in acquiring easements and entering into contracts to further business pursuits. Further, disclosure of the information about Touch America's operation and maintenance costs could disadvantage the company in present and future transactions. MPC maintained that access to the information should be limited to the Commission and its staff. On May 31, 2000, at a duly noticed work session, the Commission granted the request for a protective order.

Wherefore, the Commission issues the following Protective Order in the Commission's inquiry in N2000.5.76.

ORDER

IT IS ORDERED that the following Protective Order covering the material and information described by Touch America in the Motion and determined by MPC and Touch America to be confidential, shall be in effect, unless Touch America announces that the information need not remain protected.

1. (a) Confidential Information. All documents, data, information, studies and other materials furnished pursuant to the data requests that the Commission submitted to MPC and Touch America, or further Commission data requests in N2000.5.76, that are claimed to be

trade secret, privileged or confidential shall be furnished pursuant to the terms of this Order. All persons accorded access under this Order shall treat this trade secret, confidential or privileged commercial and financial information as confidential ("Confidential Information"). Confidential Information shall not be used nor disclosed except for the purpose of this proceeding, and solely in accordance with this Order. MPC or Touch America shall mark and designate all material claimed to be Confidential Information with a designation indicating its trade secret, proprietary or confidential nature, and submit this Confidential Information to the Commission on yellow paper for identification for filing purposes.

(b) Use of Confidential Information and Persons Entitled to Review. All Confidential Information submitted pursuant to this Order shall be given solely to members of the Commission or its staff, who shall be bound by the terms of this Order. Before giving access to Confidential Information as contemplated by this paragraph, counsel for the Commission shall deliver a copy of this Order to the person, who must agree in writing to comply with and be bound by this Order before disclosure. Confidential Information shall not be disclosed to any person who has not signed a nondisclosure agreement form incorporated herein as Exhibit "A." The signed Exhibit "A" shall be delivered to counsel for Touch America.

2. Seal. While in the custody of the Commission, materials subject to this Order shall be marked "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER, N2000.5.76." Due to the trade secret nature, these materials shall not be considered as records in the possession or retained by the Commission within the meaning of the open meetings or public records statutes.

3. Use in Other Inquiries or Proceedings. If there are additional inquiries or proceedings related to or arising from the captioned matter, the Commission will attempt to refer to Confidential Information in only a general or conclusionary form.

4. Segregation of Files. All Confidential Information filed with the Commission will be sealed by the Commission, segregated in the files of the Commission and withheld from inspection by any person not bound by the terms of this Order. Confidential Information may be released from the restrictions of this Order by agreement of Touch America or, after notice to Touch America and hearing, pursuant to an Order of the Commission or final order of a Court having jurisdiction.

5. Preservation of Confidentiality. All persons entitled to access to any Confidential Information by reason of this Order shall neither use nor disclose the Confidential Information for purposes of business or competition, or for any purpose other than this proceeding and then solely as contemplated herein, and shall take reasonable precautions to keep the Confidential Information secure and in accordance with this Order.

DONE AND DATED this 31st day of May, 2000 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice-Chair

BOB ANDERSON, Commissioner

GARY FELAND, 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.

EXHIBIT "A"

I have reviewed the foregoing Protective Order in Docket N2000.5.76 dated May 31, 2000 and agree to be bound by the terms and conditions of the order.

Signature

Typed or Printed Name

Employer or Firm

Business Address

Party

Date