

Service Date: September 20, 2000

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

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IN THE MATTER OF U S WEST)	UTILITY DIVISION
COMMUNICATIONS, INC., Application)	
for Generic Protective Order)	DOCKET NO. N2000.8.119
)	ORDER NO. 6270

PROTECTIVE ORDER

On August 11, 2000, U S West Communications, Inc. (USWC), filed an application for a protective order to govern access to certain types of information expected to be filed before the Public Service Commission (PSC) in routine filings, annual reports, responses to inquiries, and other instances which normally remain outside of the contested-case setting. This type of protective order is commonly referred to as a "generic" protective order. See, ARM 38.5.5004. Access to information of certain types, filed by USWC as well as several other telecommunications carriers, has been governed by PSC-approved generic protective orders, renewed from time to time, for about the past 10 years.

USWC requests protection of information such as cost information filed in support of tariff filings (e.g. cost studies), central office access line and switch information (e.g., annual report schedules 23 and 24), and employee compensation (e.g., annual report schedule 27). USWC argues that the identified information is trade secret in accordance with § 30-14-402, MCA, and is therefore protectible pursuant to § 69-3-105, MCA, or is constitutionally protected as private pursuant to Art. II, § 10, Mont. Const.

The PSC determines that cost information filed in support of tariff filings could be confidential and subject to protection from public disclosure pursuant to § 69-3-105, MCA (trade secret). The PSC grants USWC's request for protection of cost information and hereby orders that information submitted in accordance with this order be treated as "confidential information" under the terms of this protective order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030. This protective order shall be in effect for a period of four years, unless otherwise ordered by the PSC.

The PSC determines that USWC's central office access line and switch information (e.g., annual report scheduled 23 and 24) is readily ascertainable by proper means through USWC's web site and therefore is not protectible through protective order as it is not "trade secret" within the definition of that term at § 30-14-402, MCA. The PSC determines that employee compensation is also not protectible through protective order. Therefore the PSC denies USWC's request that this protective order extend to central office access line and switch information and employee compensation.

USWC has included a suggested protective order with its application. The suggested order is not approved. USWC need not include a draft protective order with applications for protective orders. See ARM 38.2.5007. The only reason to do so would be in regard to suggesting protective order language pertaining to requests for waiver of protective-order rule provisions or requests for special terms and conditions. If USWC is intending this type of thing, it must comply with ARM 38.2.5002, which requires such requests be accompanied by a clear identification of any provision for which waiver is sought and exact statement of any special provision proposed, with a concise statement of the facts and law supporting each.

Done and dated this 22nd day of August, 2000, by a vote of 3-2.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chair
(voting to dissent)

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner
(voting to dissent)

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
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 the denial of a protective order is allowed in accordance with ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No. N2000.8.119, Order No. 6270
Order Action Date: August 22, 2000

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

