(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC.  FOR APPROVAL OF AN AGREEMENT FOR RESALE PURSUANT TO 47 U.S.C. § 252(e). | )  )  )  )  )  ) | CASE NO. USW-T-96-16  ORDER NO.  26814 |

On December 19, 1996, U S WEST Communications, Inc. (U S WEST) filed an Application for approval of an agreement for resale services.  The agreement provides for Montana Communications (MC) to resell U S WEST local exchange service in Idaho and other states.  The Application indicated that the agreement was reached through voluntary negotiations and is submitted to the Commission for approval pursuant to Section 252(e) of the federal Telecommunications Act of 1996.  The Application further indicates that MC has not applied for certification to provide local tele­communication services in Idaho.  The Commission declines approval of the agreement pursuant to Section 252(e) because it is not consistent with the public interest, convenience and necessity.

Section 252(e) of the Act states the guidelines for approval of interconnection agreements as follows:

(e)APPROVAL BY STATE COMMISSION.—

(1)APPROVAL REQUIRED.—Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission.  A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

(2)GROUNDS FOR REJECTION.—The State commission may only reject—

(A)an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

(i)the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii)the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;

MC currently is not a telecommunications provider in Idaho, nor has it filed for a Certificate of Public Convenience & Necessity to provide local service.  Paragraph 252(e)(3) of the Act provides that state commissions may enforce requirements of state law in its review of an agreement, such as the requirement to obtain a certificate for operating authority.  Before MC can provide service in Idaho pursuant to the terms of the agreement or otherwise, MC must apply for and receive a Certificate of Public Convenience & Necessity pursuant to the rules and laws in Idaho.

We find, because MC is not a telecommunications provider according to Idaho law and  is not authorized to provide local telecommunications service in this state, that it is not in the public interest, convenience or necessity to approve the resale agreement.  More than  45 days have elapsed since the filing of this Application, but MC still has not filed for a Certificate or registered with the Secretary of State’s office to operate in Idaho.  We believe the public interest requires MC to be authorized to provide service in Idaho prior to approval of a resale agreement.  Accordingly, we reject the agreement in whole.  If and when MC receives a Certificate of Public Convenience and Necessity to operate as a telecommunications provider in Idaho, the parties may refile their request for approval of the agreement.

O R D E R

IT IS HEREBY ORDERED that the agreement submitted by U S WEST for resale service is not approved.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. USW-T-96-16  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. USW-T-96-16 .  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of February 1997.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:USW-T-96-16.sh2

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

February 24, 1997