EXHIBIT 12
DATE 2-16-05
HB HB 618

Rick Hays – HB 618
February 15, 2005

I am Rick Hays, president of Qwest's operations in Montana. I rise in opposition to HB 618.

In the interest of your time in the waning hours before transmittal, this bill is not necessary.

1. It duplicates existing Montana statutes and the Federal Telecom Act of 1996;

2. The issue is a Federal issue and has been deemed so by the D.C. Circuit Court as recently as last month. These unbundled network elements cannot be handled 50 different ways. It will make it impossible for companies to operate across statelines.

3. 1 state, Texas has passed similar language since the 96 federal act and they did so right after the act passed BUT the Texas PSC has not done anything with the statute since it was enacted in early 1997. No other state has successfully acted on this issue for fear of Federal preemption. The Michigan PSC tried last month and was overruled by the U.S. District Court.

4. This an extremely controversial issue as evidenced by the fact it has received one decision from the U.S. Supreme Court and two from the federal District Court in it's 8 years of existence.

5. The FCC's attempt at solving this issue has resulted in it being overturned three times by the courts and the FCC just made a 4th attempt 2 weeks ago.

6. Let's take a brief look at the bill:

   - Section 2 is the same as the definitions already in the MT statutes;
   - Section 3-1 is in the Federal Act and MT statutes;
   - Section 3-2 is in Section 69-3-847 and 848 and Section 69-3-811;
   - Section 4 doesn't include whether the element creates impairment which is required by the federal Telecom Act.
   - Section 5 the PSC already has rules;
   - Section 6 the Federal Act and MT statutes already have language that allows the rural companies to not participate in this unlike Qwest.

7. Qwest has a process in place to deal with this need. It has been well received by the competitive companies and viewed as an industry leader.

7 reasons why now is not the time or place to take up this bill. It's unnecessary and should be tabled.

What you have here is a last minute mess. This has not and will not work.