

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Granite Telecommunications, LLC/Qwest
Corporation
Local Services Platform Agreement
Application**

Case No. PU-07-29

ORDER GRANTING TRADE SECRET PROTECTION

February 25, 2009

On October 11, 2006, Qwest Corporation (Qwest) filed an application for a trade secret protective order under North Dakota Administrative Code Chapter 69-02-09-01 for protection against public disclosure of trade secret information as defined by North Dakota Century Code (NDCC) Section 47-25.1-01(4). Qwest provided the following general description of the nature of the information sought to be protected:

Information included in the Qwest Local Services Platform Agreement between Qwest and Granite Telecommunications, LLC (Granite). Qwest states that the agreement contains confidential terms.

Qwest Corporation states the information contains confidential and proprietary details of an agreement between Qwest and Granite, and that access to this information would unfairly enable competitors to make strategic and tactical decisions that would be harmful to the success and profitability of Qwest. Qwest states that competitors or potential competitors of Qwest that provide local exchange service and other telecommunications service would obtain economic value from disclosure of this information. Competitors and potential competitors of Qwest in North Dakota include AT&T Communications of the Midwest, Inc.; McLeodUSA Telecommunications Services, Inc.; MCImetro Access Transmission Services, LLC; Sprint Communications Company, L.P.; Excel Telecommunications, Inc., and any other provider of telecommunications services in North Dakota or any of the other states in which Qwest operates.

Qwest Corporation states that the confidentiality of the information has been maintained by Qwest and Granite, and is only available to those employees and representatives who have a need to know the information to perform their duties and responsibilities.

Under North Dakota Century Code (NDCC) Section 47-25.1-01(4) :

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Under NDCC Section 44-04-18.4(2)(d), which is almost identical to NDCC Section 47-25.1-01(4):

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, technical know-how, or process that:

1. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information.

On February 18, 2009, Commission staff (Staff) filed a response to Qwest’s request for trade secret protection. Staff believes that Qwest’s application satisfies the requirements of NDCC Chapter 47-25.1-01, which allows the Commission to grant trade secret protection in this proceeding, and that the information Qwest seeks to protect qualifies as “trade secret” as that term is defined in NDCC Section 47-25.1-04 and NDCC Section 44-04-18.4(2)(d).

The information is relevant to the application because the information is included in the settlement agreement between the parties.


The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

The Commission Orders:

1. Qwest Corporation's application for trade secret protection is GRANTED.
2. This Order does not constitute precedent for subsequent trade secret decisions by the Commission.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner

Kevin Cramer
President

Brian P. Kalk
Commissioner