

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Qwest Corporation
Bismarck Rate Center
Number Resources**

Case No. PU-08-941

**STAFF RESPONSE TO QWEST CORPORATION'S APPLICATION FOR
TRADE SECRET PROTECTION**

On December 16, 2008, Qwest Corporation (Qwest) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protecting against public disclosure trade secret information as defined by North Dakota Century Code Section 47-25.1-01(4). Qwest provided the following to support its application:

1. General description of the nature of the information sought to be protected.

The information Qwest seeks to protect is contained in the request for a numbering resources safety valve waiver. This information includes a customer request to Qwest for 600 sequential telephone numbers out of the 701-557-4 block, Qwest's application to NeuStar for numbering resources that was denied, and the required supporting documentation.

2. Explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.

Qwest states that the documents contain specific information about Qwest's operations and resources in the Bismarck, North Dakota area. The information includes details on Qwest's numbering resources in Bismarck where Qwest does not have the

numberings resources to meet the needs of this specific customer. Qwest states that the documentation also includes Qwest's projections of its future numbering resource utilization, information it is required by FCC rules and numbering guidelines to submit to NeuStar with its application for additional numbering resources. NeuStar treats such information as confidential. Qwest states that this type of information is highly sensitive and its public disclosure would place Qwest at a competitive disadvantage in a competitive market.

3. Explanation of why the information is not readily ascertainable by proper means by other persons.

Qwest states that the confidentiality of the information has been maintained by the company. The information is not disclosed to the public or to persons other than employees or authorized agents of Qwest who need to know the information to fulfill their responsibilities. Qwest states that it does not disclose this information outside the company except under the terms of strict agreements or orders to maintain the confidentiality of the information.

4. General description of the persons or entities that would obtain economic value from disclosure or use of the information.

Qwest states that the information could have economic value to competitors or potential competitors of Qwest that provide local exchange service and other telecommunications service.

5. Specific description of known competitors and competitors' goods and services that is pertinent to the tariff or rate filing.

Competitors and potential competitors of Qwest in North Dakota include AT&T, Verizon, McLeod, Sprint and any other provider of telecommunications services in North Dakota. Qwest did not provide any description of known competitors' goods and services that are pertinent to the filing.

6. Description of the efforts used to maintain the secrecy of the information.

Qwest states that the information is only available to those employees and representatives of Qwest who have a need to know the information to perform their duties and responsibilities. Qwest states that they do not disclose the information outside the company except under the terms of strict agreements to maintain the confidentiality of the information.

Staff Review

Staff has reviewed Qwest's request for trade secret protection. North Dakota Century Code section 47-25.1-01(4) defines the term "trade secret" as:

"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."

The definition of "trade secret" under North Dakota Century Code section 44-04-18.4(2)(d), which is almost identical to North Dakota Century Code section 47-25.1-01(4), reads:

"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*. (Differences italicized).

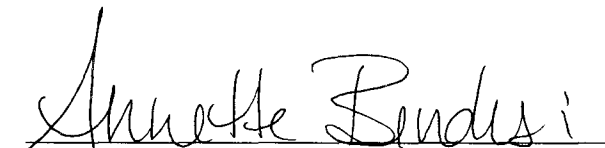
North Dakota Administrative Code section 69-02-09-04 requires that the "commission staff examine the information and application and make a prima facie recommendation of whether the information is relevant and a trade secret under the definition of trade secret in North Dakota Century Code section 47-25.1-01."

The information is relevant to the application because the information is used to calculate the revenue requirements for Qwest. The information for which trade secret protection is requested could be used against Qwest by vendors, contractors and suppliers in the course of submitting proposals for similar projects.

Staff believes that Qwest's application satisfies the requirements of North Dakota Century Code section 47-25.1-01 that allows the Commission to grant trade secret protection in this proceeding. The Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

For reasons set forth above, staff recommends that the Commission grant Qwest's Application Requesting Trade Secret Protection in this case.

Dated this 7 day of January 2009.


Annette Bendish
Staff Counsel