

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Qwest Corporation  
Bismarck Rate Center  
Number Resources**

**Case No. PU-08-941**

**AFFIDAVIT OF SERVICE BY REGULAR MAIL & ELECTRONIC MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Janet Marquart** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **23<sup>rd</sup>** day of **January, 2009**, she deposited in the United States Mail, Bismarck, North Dakota, 24 envelopes by first class mail, fully prepaid, securely sealed and each containing a photocopy and 58 electronic mail electronically sent a copy of:

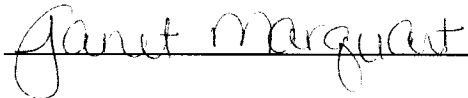
**Order Granting Trade Secret Protection  
Order on Numbering Resources**

The envelopes and electronic mails respectively were addressed as follows:

See attached list.

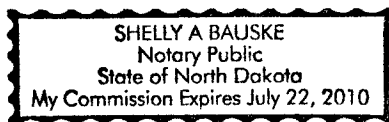
Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

Subscribed and sworn to before me  
this **23<sup>rd</sup>** day of **January, 2009**.

  
\_\_\_\_\_

  
\_\_\_\_\_  
Notary Public

SEAL



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Qwest Corporation  
Bismarck Rate Center  
Number Resources**

**Case No. PU-08-941**

**ORDER GRANTING TRADE SECRET PROTECTION**

**January 14, 2009**

On December 16, 2008, 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 contained in Qwest's 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.

Qwest states that the documents for which they request a trade secret protective order 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 numbering resources to meet the needs of a specific customer. Qwest also states that the documentation includes Qwest's projections of its future numbering resource utilization, information it is required by Federal Communications Commission (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 the type of information is highly sensitive and its public disclosure would place Qwest at a competitive disadvantage in a competitive market.

Qwest states that the confidentiality of the information sought to be protected has been maintained by Qwest. Qwest states that the information is not disclosed outside the company, except under the terms of strict agreements to maintain the confidentiality 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 the information could have economic value to competitors or potential competitors of Qwest that provide local exchange service and other telecommunications service. 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. 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.

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.

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

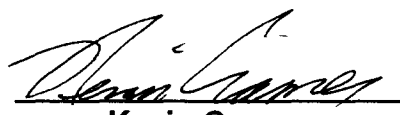
## Order

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

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Qwest Corporation  
Bismarck Rate Center  
Numbering Resources**

**Case No. PU-08-941**

**ORDER**

**January 14, 2009**

On November 7, 2008 Qwest Corporation (Qwest) submitted an application to NeuStar, Inc. National Pooling Administrator (NeuStar) for additional numbering resources consisting of a 1,000 number block out of the Bismarck, North Dakota rate center.

NeuStar denied the request for additional numbering resources for the Bismarck switch because the company did not meet the Federal Communications Commission (FCC) criteria. The FCC requires that applicants for additional numbering resources must demonstrate that the rate center for which the numbers are requested has no more than a six-month inventory of numbers and is utilizing 75% or more of the numbers in inventory. Qwest did not qualify for additional numbers at this time.

On December 3, 2008 Qwest filed a request for review of NeuStar's denial of its application and asked that the Commission direct NeuStar to provide the block of 1,000 numbers. Under FCC rules, state commissions may grant a waiver of the FCC rules and grant requests for additional numbering resources when there is a demonstrated verifiable need.

The Commission has authority under North Dakota Century Code section 49-21-01.7 (14) to resolve numbering resource conservation issues.

The Commission must take into consideration the extent to which the carrier has used available numbering resource optimization strategies and the carrier's showing that deviation from the FCC's inventory and utilization requirements is warranted. The carrier must demonstrate the following: 1) that the carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of the 6 months-to-exhaust requirement; and 2) that projected growth is based on the carrier's actual growth in the market of rate area, or on the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market; or 3) that there is a verifiable need due to the specific customer request for numbering resources in a given rate center that the carrier is unable to satisfy with its current inventory. Regarding a specific customer request, the carrier must provide the Commission with documentation of the customer request and current proof of utilization in the rate center.

The request for numbers is for a specific customer, Basin Electric Power Cooperative (Basin). Basin has been unable to incorporate available DID (direct inward dial) numbers currently available in the Bismarck area into their dialing plan. This is Basin's second request for a block of numbers. In its first request, granted by the Commission on August 13, 2008, Basin indicated it would be making a second request for a block of numbers. Basin intends to utilize 600 numbers, specifically 701-557-4400 through 4999.

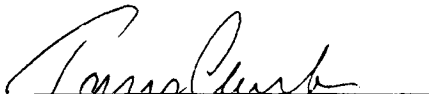
In the first request, Qwest indicated that it has no clean blocks of 1000 numbers available for assignment in the Bismarck rate center. Qwest intends to use a block of 1000 numbers from the number pool and will not be opening an NXX code.

Based on the specific need demonstrated, we find it appropriate to grant Qwest's request.

### ORDER

The Commission orders that NeuStar, Inc. National Pooling Administrator provide Qwest Corporation a one thousands block of numbers from the number pool, specifically a 4 block (701-NXX-4000 thru 4999) for the Bismarck, North Dakota rate center as soon as possible.

### PUBLIC SERVICE COMMISSION



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**Tony Clark**  
Commissioner



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**Kevin Cramer**  
President



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**Brian P. Kalk**  
Commissioner

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