

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

WWC Holding Co., Inc.
2008 High-Cost Universal Service Support
Annual Report

Case No. PU-08-646

WWC Holding Co., Inc.
2009 High-Cost Universal Service Support
Annual Report

Case No. PU-09-583

ORDER GRANTING TRADE SECRET PROTECTION

September 27, 2012

On August 1, 2008, Alltel Communications, Inc. (Alltel) filed an application for trade secret protection in the captioned 2008 case under North Dakota Administrative Code Ch. 69-02-09, asking the Commission to protect against public disclosure certain information filed by Alltel in compliance with the Commission's requirements regarding Alltel's annual Eligible Telecommunications Company report filing. On July 31, 2009, Alltel filed a similar application in the captioned 2009 case.

On September 13, 2012, North Dakota Public Service Commission Staff filed and served its response to the requests, recommending the Commission approve the requests.

North Dakota Administrative Code § 69-02-09-04 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the request of Alltel for protection of information.

In its 2008 filing, Alltel asked the Commission to protect the following information from disclosure:

- a. 2007 Disbursements and Progress Reports (Receipts, Investments, and Expenditures Report);
- b. Proposed Two-year Service Improvement Plan
- c. Network Outage Report;
- d. Unfulfilled Service Requests.

In its 2009 filing, Alltel asked the Commission to protect the following information from disclosure:

- a. 2008 Receipts from the Federal universal Service Fund and 2008 Progress Report- Investments and Expenditures Report;
- b. Updated Two-year Service Improvement Plan;

- c. Network Outage Report;
- d. Unfulfilled Service Requests

In each application, Alltel stated that the information sought to be protected derives independent economic value from not being generally known to other persons, and maintaining its secrecy is necessary for Alltel to maintain its competitive advantage. Further, Alltel asserts that the information is not readily ascertainable by other means.

Alltel asserts that there are competitors, or potential competitors, that could obtain economic value from disclosure of the information sought to be protected. Alltel asserts that without access to the protected information, Alltel's competitors would not have access to any perceived vulnerabilities in Alltel's network.

Alltel asserts that it makes an effort to maintain the secrecy of the information it seeks to protect, including restricting access to the information to employees who have a need to know and not disclosing the information to persons outside the company. Finally, in the 2008 application, Alltel asserts that the information it seeks to protect is protected by the Federal Communications Commission (FCC) under federal rules.

North Dakota Century Code § 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. N.D.C.C. § 44-04-18.4(1). Commercial and financial information can be protected from disclosure if the information has not been previously disclosed and disclosure would impair the Commission's ability to obtain similar information in the future or would cause competitive injury to the person providing the information. N.D.C.C. §§ 44-04-18.4(2)(a) and 44-04-18.4(2)(b). Proprietary and trade secret information can be protected when the information derives independent economic value from not being generally known to or readily ascertainable by other persons, and is the subject of reasonable efforts to maintain its secrecy. N.D.C.C. §§ 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Further, the financial information provided to the Commission is considered confidential by the FCC under 47 C.F.R. §§ 0.0457 and 0.0459. The FCC also considers information in outage reports to be highly sensitive and protects the information from public dissemination in the Freedom from Information Act. N.D.C.C. §44-04-18(1), as interpreted by the North Dakota Attorney General, allows a state agency to provide confidentiality protection of information if the information is specifically protected under federal regulation. The outage information is protected under federal regulation.

Order

The Commission orders:

1. The 2008 application of WWC Holding Co., Inc. for protection of information is GRANTED;
2. The 2009 application of WWC Holding Co., Inc. for protection of information is GRANTED.

PUBLIC SERVICE COMMISSION



**Kevin Cramer
Commissioner**



**Brian P. Kalk
Chairman**



**Bonny M. Fetch
Commissioner**