



Public Service Commission

State of North Dakota

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9 October 2012

Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Blvd. Ave. Dept. 408
Bismarck, ND 58505-0480

Re: Missouri Valley Communications, *et al.*
2008, 2009, 2010 & 2011 High-Cost Universal Support Annual Reports

Dear Mr. Nitschke:

Enclosed is a Staff Response to Applications for Trade Secret Protection in the captioned cases along with a Certificate of Service.

Best regards,

Illona A. Jeffcoat-Sacco
PSC General Counsel

c/w enclosures: Don Negaard, David Hogue

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Missouri Valley Communications 2008 High-Cost Universal Service Support Annual Report	Case No. PU-08-658
Dakota Central Telecom 1, Inc. 2008 High-Cost Universal Service Support Annual Report	Case No. PU-08-685
Dakota Central Telecommunications Cooperative 2009 High-Cost Universal Service Support Annual Report	Case No. PU-09-612
Polar Communications Mutual Aid Corporation 2009 High-Cost Universal Service Support Annual Report	Case No. PU-09-621
Missouri Valley Communications 2009 High-Cost Universal Service Support Annual Report	Case No. PU-09-624
Polar Communications Mutual Aid Corporation 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-515
West River Telecommunications Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-516
Turtle Mountain Communications, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-517
Reservation Telephone Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-518
Wolverton Telephone Company 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-519

Polar Telcom, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-520
Northwest Communications Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-521
North Dakota Telephone Company 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-522
Sagebrush Cellular, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-523
Nemont Telephone Cooperative, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-524
Dakota Central Telecommunications Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-525
Midstate Telephone Company 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-526
Midstate Communications Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-527
Inter-Community Telephone Company, L.L.C. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-528
Halstad Telephone Company 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-529
Moore and Liberty Telephone Company 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-530

Griggs County Telephone Co. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-531
Dickey Rural Telephone Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-532
Dickey Rural Communications, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-533
Dickey Rural Access, Inc. 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-534
Consolidated Telcom 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-535
BEK Communications Cooperative 2010 High-Cost Universal Service Support Annual Report	Case No. PU-10-536
North Dakota Telephone Company 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-534
Northwest Communications Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-535
Polar Communications Mutual Aid Corporation - 381630 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-536
Polar Communications Mutual Aid Corporation - 381614 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-537
Polar Telcom, Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-538

Wolverton Telephone Company 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-539
Reservation Telephone Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-540
United Telephone Mutual Aid Corporation 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-541
West River Telecommunications Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-582
Sagebrush Cellular, Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-583
Nemont Telephone Cooperative, Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-584
Midstate Telephone Company 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-585
Midstate Communications Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-586
Inter-Community Telephone Company, L.L.C. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-587
Halstad Telephone Company 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-588
Moore and Liberty Telephone Company 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-589

Griggs County Telephone Co. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-590
Dickey Rural Communications, Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-591
Dickey Rural Telephone Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-592
Dickey Rural Access, Inc. 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-593
Dakota Central Telecommunications Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-594
Consolidated Telcom 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-595
BEK Communications Cooperative 2011 High-Cost Universal Service Support Annual Report	Case No. PU-11-596

STAFF RESPONSE TO APPLICATIONS FOR TRADE SECRET PROTECTION

On 1 August, 2008, the attorney for the Rural Telephone Company Group filed applications for trade secret protection in the captioned 2008 cases on behalf of the named companies who are members of the Rural Telephone Company Group (RTCG), under North Dakota Administrative Code Ch. 69-02-09, asking the Commission to protect against public disclosure certain information filed in compliance with the Commission's requirements in North Dakota Administrative Code §§ 69-09-05-12(2)

and 69-09-05-12.1 regarding each company's filing its annual Eligible Telecommunications Company report.

On 31 July 2009, 30 July 2010, 29 July 2011, 31 July 2011, and 1 August 2011, the attorney for the RTCG filed similar applications for trade secret protection in the respective captioned 2009, 2010, and 2011 cases on behalf of the respective named companies who are members of the RTCG.

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 requests of the RTCG for protection of information.

The RTCG asks the Commission to protect the following information from disclosure:

1. A description of each company's Service Improvement Plan;
2. A summary of each company's Universal Service Support in the prior calendar year and the expenditures for each company;
3. An estimate of the Universal Service Support to be received in the upcoming calendar year and the planned capital expenditures of the company;
4. A description of improvements and upgrades;
5. An outage report;

The RTCG stated that the information sought to be protected derives independent economic value from not being generally known to other persons and the level of detail involved, if known, would allow competitors to determine the level of support to and the cost of service for study areas and exchanges in each company's

service area. Further, the RTCG asserts that the information is not readily ascertainable by other means.

RTCG asserts that there are competitors, or potential competitors, that could obtain economic value from disclosure of the information sought to be protected. These include wireless providers, cable television providers, competitive local exchange providers, internet providers, dish networks, and others.

RTCG further asserts that each company makes an effort to maintain the secrecy of the information RTCG seeks to protect including restricting access to the information to employees and management level persons who have a need to know, and not disclosing the information to persons outside the company except under strict circumstances.

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).

Staff believes that the application the RTCG satisfies the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

For reasons set forth above, Staff recommends that the Commission grant the application of the RTCG to protect certain filed information in these cases.

Dated this 9th day of October 2012.


Illona A. Jeffcoat-Sacco
General Counsel

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **STAFF RESPONSE TO REQUEST FOR TRADE SECRET PROTECTION** was, on 9th October 2012, served on the following by regular mail:

Don Negaard
Pringle & Herigstad, P.C.
PO Box 1000
Minot, ND 58702-1000

David J. Hogue
Pringle & Herigstad, P.C.
PO Box 1000
Minot, ND 58702-1000

Dated this 9th day of October 2012.


Illona Jeffcoat-Sacco
General Counsel
North Dakota Public Service Commission