

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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ORDER GRANTING TRADE SECRET PROTECTION

OCTOBER 10, 2012

On August 1, 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 July 31, 2009, July 30, 2010, July 29, 2011, July 31, 2011, and August 1, 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.

On October 5, 2012, North Dakota Public Service Commission Staff filed and served its responses 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 the RTCG for protection of information.

The RTCG asked 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).

Order

The Commission orders:

1. The 2008 applications of each company identified in the respective captioned cases and included in the Rural Telephone Company Group for protection of information is GRANTED;
2. The 2009 applications of each company identified in the respective captioned cases and included in the Rural Telephone Company Group for protection of information is GRANTED.
3. The 2010 applications of each company identified in the respective captioned cases and included in the Rural Telephone Company Group for protection of information is GRANTED.
4. The 2011 applications of each company identified in the respective captioned cases and included in the Rural Telephone Company Group for protection of information is GRANTED.

PUBLIC SERVICE COMMISSION



**Kevin Cramer
Commissioner**



**Brian P. Kalk
Chairman**



**Bonny M. Fetch
Commissioner**