



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark
Brian P. Kalk
Kevin Cramer

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

20 April 2012

Darrell Nitschke
Executive Secretary
600 East Boulevard, Dept 408
Bismarck, ND 58505-0480

Re: New Cingular Wireless PCS, LLC
Designated Eligible Carrier
Application
Case No. PU-11-86

Dear Mr. Nitschke:

Enclosed for filing is the Staff Response to Request for Trade Secret Protection in the captioned case along with a Certificate of Service and 5 copies.

Best regards,


Illona A. Jeffcoat-Sacco
General Counsel

enclosures

c/w enclosures: Betsy S. Granger
Thomas D. Kelsch

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**New Cingular Wireless PCS, LLC
Designated Eligible Carrier
Application**

Case No. PU-11-86

STAFF RESPONSE TO REQUEST FOR TRADE SECRET PROTECTION

On March 23, 2011, New Cingular Wireless PCS, LLC (New Cingular) filed an application for trade secret protection in the captioned case, under North Dakota Administrative Code Chapter 69-02-09, asking the Commission to protect against public disclosure certain information filed in support of New Cingular Wireless' application for designation as an eligible carrier.

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 New Cingular for protection of information.

New Cingular asked that the Commission protect from disclosure Exhibit E filed with the application. Exhibit E provides granular detailed information about network improvements planned for the last half of 2011 and the first half of 2012, as well as associated expenses.

New Cingular stated that the information it seeks to protect derives independent economic value from not being generally known to other persons and the level of detail involved, if known, would allow competitors to know confidential details regarding New Cingular's network infrastructure and competitive position in the North Dakota

marketplace. Further, the company asserts that the information is not readily ascertainable by other means.


New Cingular asserts that there are competitors, or potential competitors, that could obtain economic value from disclosure of the information sought to be protected. These are the other wireless carriers offering service in North Dakota.

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 of New Cingular 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 New Cingular to protect certain filed information in this case.

Dated this 20th day of April 2012.



Illona Jeffcoat-Sacco
General Counsel

North Dakota Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**New Cingular Wireless PCS, LLC
Designated Eligible Carrier
Application**

Case No. PU-11-86

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 the 20th day of April 2012, served on the following by regular mail:

Betsy S. Granger
General Attorney
525 Market Street - 20th Floor #5
San Francisco, CA 94105

Thomas D. Kelsch
Kelsch, Kelsch, Ruff & Kranda
P.O. Box 1266
Mandan, ND 58554-1266

Dated this 20th day of April 2012.


Illona Jeffcoat-Sacco
General Counsel
North Dakota Public Service Commission