



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Brian P. Kalk  
Kevin Cramer  
Bonny M. Fetch

Executive Secretary  
Darrell Nitschke

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

23 October 2012

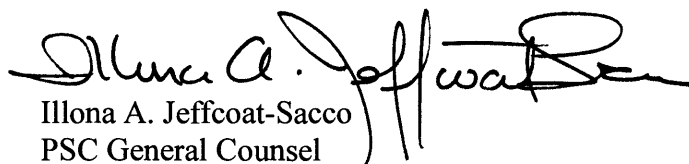
Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Blvd. Ave. Dept. 408  
Bismarck, ND 58505-0480

Re: New Cingular Wireless PSC, LLC  
2011 & 2012 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/encl: Thomas Kelsch

- 5 PU-12-504 Filed 10/23/2012 Pages: 5  
Staff response to applications for trade secret protection  
Public Service Commission
- 4 PU-11-533 Filed 10/23/2012 Pages: 5  
Staff response to applications for trade secret protection  
Public Service Commission

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

**New Cingular Wireless PSC, LLC**  
**2011 High-Cost Universal Service Support**  
**Annual Report**

**Case No. PU-11-533**

**New Cingular Wireless PSC, LLC**  
**2012 High-Cost Universal Service Support**  
**Annual Report**

**Case No. PU-12-504**

**STAFF RESPONSE TO APPLICATIONS FOR TRADE SECRET  
PROTECTION**

On 1 August 2011, the attorney for the captioned company filed an application for trade secret protection in the Case No. PU-11-533 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 regarding the company's annual Eligible Telecommunications Company report filing. On 30 July 2012, the attorney for the captioned company filed a similar application for trade secret protection in Case No. PU-12-504.

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 for protection of information.

The 2011 application asks the Commission to protect the following information disclosure:

1. The estimated amount of high-cost support the company anticipates it will receive in 2012 and a description of how that support will be used for the provision, maintenance or upgrading of the company's facilities and services.

The 2012 application asks the Commission to protect:

1. The company's progress report on its previously filed service improvement plan for 2011 and a revised service improvement plan for 2012 and 2013 based on projected funding.
2. A map depicting cell sites added in 2011 and planned for 2012.

The applications state that the information sought to be protected derives independent economic value from not being generally known to other persons, and restricting disclosure is necessary to prevent substantial harm to the company and maintain each company's competitive position. Further, the companies assert that the information is not readily ascertainable by other means and they take precautions to limit disclosure. Finally, the companies assert that the information they seek to protect is protected by the Federal Communications Commission (FCC) under federal rules.

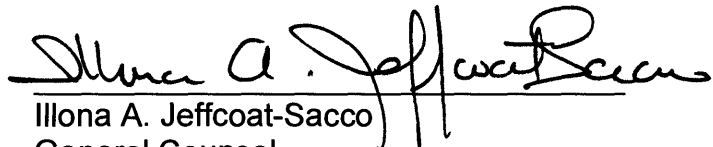
North Dakota Century Code § 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. N.D.C.C. § 44-04-18.4(1). Commercial and financial information can be protected from 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.

Staff believes that each application 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 applications of the captioned companies to protect certain filed information in these cases.

Dated this 23<sup>rd</sup> 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 23 October 2012, served on the following by regular mail:

Thomas D. Kelsch  
Counsel for New Cingular Wireless PSC, LLC Communications  
KELSCH, KELSCH, RUFF & KRANDA  
PO Box 1266  
Mandan, ND 58554-7266

Dated this 23<sup>rd</sup> day of October 2012.

  
Illona A. Jeffcoat-Sacco  
General Counsel  
North Dakota Public Service Commission