



# 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**

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

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

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

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

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

## **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 9<sup>th</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 9<sup>th</sup> 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 9<sup>th</sup> day of October 2012.



Illona Jeffcoat-Sacco  
General Counsel  
North Dakota Public Service Commission