



# Public Service Commission

## State of North Dakota

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2 March 2012

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

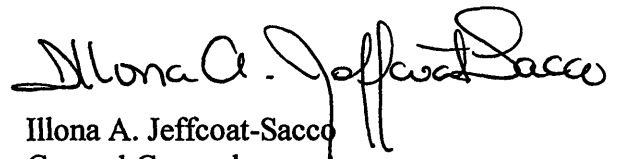
Re: Dickey Rural Telephone Cooperative  
Designated Eligible Carrier  
Application  
Case No. PU-12-73

Dickey Rural Telephone Cooperative  
Local Exchange  
Public Convenience & Necessity  
Case No. PU-12-74

Dear Mr. Nitschke:

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

Best regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

enclosures  
c/w enclosures: Patrick Ward  
Fallon Kelly

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

**Dickey Rural Telephone Cooperative  
Designated Eligible Carrier  
Application**

**Case No. PU-12-73**

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**Case No. PU-12-74**

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

On February 10, 2012, Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., and Dickey Rural Communications, Inc. (collectively the Dickey Rural Companies or the Companies) filed an application for trade secret protection in each 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 Dickey Rural Telephone Cooperative's applications for certificates of public convenience and necessity (Case No. PU-12-74) and for designation as an eligible carrier (Case No. PU-12-73).

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 Dickey Rural Companies for protection of information.

The Dickey Rural Companies ask the Commission to protect the following information from disclosure (for each company):

1. A description of Service Improvement Plans;

2. A summary of expenditures of each company in the prior year;
3. An estimate of the Universal Service Support to be received in the upcoming calendar year and the planned capital expenditures of each company;
4. A description of improvements and upgrades;
5. An outage report;
6. Consolidated financial reports for the years 2008, 2009 and 2010.

The Companies stated that the information they seek 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 determine the level of support to and the cost of service for study areas and exchanges in each service area. Further, the Companies assert that the information is not readily ascertainable by other means.

The Dickey Rural Companies assert 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.

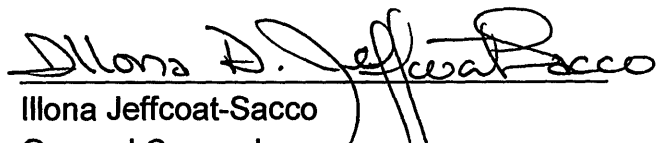
North Dakota Century Code § 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. N.D.C.C. § 44-04-18.4(1). Commercial and financial information can be protected from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

Dated this 2nd day of March 2012.

  
Illona Jeffcoat-Sacco  
General Counsel  
North Dakota Public Service Commission

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Dickey Rural Telephone Cooperative  
Designated Eligible Carrier  
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**Case No. PU-12-73**

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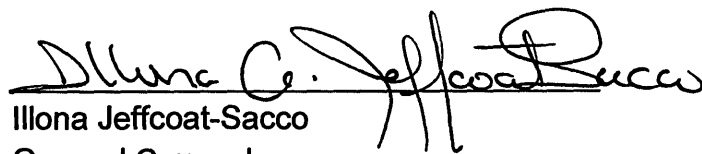
**Case No. PU-12-74**

**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 2 March 2012, served to the following:

Fallon M. Kelly  
Attorney for Dickey Rural Telephone Cooperative,  
Dickey Rural Access, Inc., and Dickey Rural Communications, Inc.  
316 Main Street  
P.O. Box 391  
Lisbon, ND 58054-0391  
[fkelly@drtel.net](mailto:fkelly@drtel.net)

Dated this 2nd day of March 2012.



Ilona Jeffcoat-Sacco  
General Counsel  
North Dakota Public Service Commission