

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

**Minnesota Independent Equal Access Corporation  
Switched Access  
Price Schedule**

**Case No. PU-12-237**

**STAFF RESPONSE TO THE REQUEST OF MINNESOTA INDEPENDENT EQUAL  
ACCESS CORPORATION FOR TRADE SECRET PROTECTION**

On May 15, 2012 Minnesota Independent Equal Access Corporation (MIEAC) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protecting against public disclosure trade secret information as defined by North Dakota Century Code section 47-25.1-01(4).

Applicants provided the following to support its application:

**1. General Description of the Nature of the Information Sought to be Protected.**

"MIEAC 2011 intrastate demand volumes and subsequent total MIEAC North Dakota interstate and intrastate revenues".

**2. An Explanation of Why the Information Derives Independent Economic Value, Actual or Potential, From not Being Generally Known to Other Persons.**

The information is not available to the public as alternative, and regulated, tandem providers would be considered competitors to MIEAC and would have economic value if disclosed.

**3. An Explanation of Why the Information is Not Readily Ascertainable by Proper Means by Other Persons.**

Please see paragraph 2 above.

**4. A General Description of the Persons or Entities that would Obtain Economic Value from Disclosure or Use of the Information.**

Please see paragraph 2 above.

**5. A Specific Description of Known Competitors and Competitor's Goods and Services that are Pertinent to the Tariff or Rate Filing.**

Please see paragraph 2 above.

**6. A Description of the Efforts Used to Maintain the Secrecy of Information.**

MIEAC indicates that none of the information is available to the public.

Staff has reviewed Applicants' request for trade secret protection of the information. N.D.C.C. § 47-25.1-01(4) defines the term "trade secret" as follows:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

N.D. Admin Code North Dakota Administrative Code section 69-02-09-04 requires that the "commission staff examine the information and application and make a prima facie recommendation of whether the information is relevant and a trade secret under the definition of trade secret in North Dakota Century Code section 47-25.1-01."

The information is relevant because the information relates to North Dakota intrastate centralized equal access rates. Applicant indicates the information contained in its application has always been maintained as confidential. The information, therefore, is not readily ascertainable by proper means by other persons.

Staff believes that the application satisfies the requirements of the law which allows the Commission to grant trade secret protection in this proceeding. The

Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

For reasons set forth above, staff recommends that the Commission grant the Applicants' request for trade secret protection.

Dated this 1<sup>st</sup> day of August, 2012.

  
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Mark Gruman  
Legal Counsel  
North Dakota Public Service Commission