

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

MCImetro Access Transmission Services, Inc.
Access Services

Case No. PU-12-255

**STAFF RESPONSE TO THE REQUEST OF VERIZON ACCESS APPLICATION FOR
TRADE SECRET PROTECTION**

On June 6, 2012 MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (Verizon Access or Applicant) 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.

The information sought to be protected is confidential support documentation for its tariff filing. Specifically, Verizon Access is seeking protection “for the confidential actual intrastate minutes of use volume data set forth in its compliance worksheet, and the calculations based thereon”.

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

Verizon access indicates that the information sought to be protected could have economic value to its competitors because it would reveal information about its market

share and competitive success and/or failure in North Dakota. The information would allow competitors to generate strategic business plans targeted to certain local exchange services offered by Verizon Access, in particular areas and to particular classes of customers, and would strengthen the feasibility of competitors' business cases, business plan scenarios, market strategies, tests of key assumptions, and generally guide their going-forward operations with respect to Verizon Access. The compilation of Verizon Access' confidential volume data, and calculations based thereon, derive independent economic value (actual or potential) from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use.

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

Verizon Access asserts that it goes to great lengths to maintain the confidentiality of its competitively-sensitive information, which is provided only to a limited set of employees with a need for access to perform their job duties.

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

Verizon Access defines their competitors as "other local exchange carriers operating in North Dakota and providing retail local exchange services to residential and/or business customers within the MCI service territory."

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

Please see Staff's response under paragraph 4 above.

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

Verizon Access asserts that they go to great lengths to maintain the confidentiality of its competitively-sensitive information, which is only provided to a limited set of employees with a need for access to perform their job duties. This information is not readily ascertainable through proper means by others because access is limited to a narrow set of Verizon Access employees.

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 it is necessary supporting information, as so outlined in the Commission's Letter Order of May 3, 2012, for the Tariff filing in question. Verizon Access indicates that the information is highly confidential, and is not available through any source other than through Verizon Access or their authorized agents. If the information is disclosed to third parties, it is done pursuant to a confidentiality

agreement. 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 13th day of June, 2012.



Mark Gruman
Legal Counsel
North Dakota Public Service Commission