

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Qwest Corporation
Access Services

Case No. PU-12-261

**STAFF RESPONSE TO THE REQUEST OF CENTURY LINK APPLICATION FOR
TRADE SECRET PROTECTION**

On June 8, 2012 Qwest Corporation dba CenturyLink QC (CenturyLink or Applicant) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protection against public disclosure trade secret information as defined by North Dakota Century Code section 47-25.1-01(4). Applicant 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 detailed volume and demand data by individual component of access service.

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

The information for which CenturyLink seeks trade secret protection contains confidential and proprietary information regarding detailed volume and demand data by individual component of access service, which are competitively sensitive. This information 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. Release of this information to competitors would unfairly enable them to make strategic and tactical decisions that would be harmful to the success and profitability of CenturyLink.

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

CenturyLink indicates that the information is proprietary to them and is available only to those employees and representatives who have a need to know the information to perform their duties and responsibilities. CenturyLink also has agreements in place protecting the confidentiality of this information.

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

CenturyLink's competitors or potential competitors that provide local exchange service and other telecommunications service, as they would obtain economic value from disclosure or its use.

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

Competitors and potential competitors of CenturyLink in North Dakota include AT&T Communications of the Midwest, Inc., McLeodUSA Telecommunications Services, Inc., MCImetro Access Transmission Services, LLC, Spring Communications Company L.P., and Midcontinent Communications and any other provider of telecommunications services in North Dakota or any of the other states in which CenturyLink operates.

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

Please see paragraph 3 above.

Staff has reviewed Applicant's 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. CenturyLink indicates that the information is highly confidential, and is not available through any source other than through them 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 Applicant's request for trade secret protection.

Dated this 13th day of June, 2012.



Mark Gruman
Legal Counsel
North Dakota Public Service Commission