

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

AT&T Communications of the Midwest, Inc.
Access Service

Case No. PU-12-262

**STAFF RESPONSE TO THE REQUEST OF AT&T'S APPLICATION FOR TRADE
SECRET PROTECTION**

On June 8, 2012 AT&T Communications of the Midwest, Inc., (AT&T 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 financial and rate information requested to be submitted with the filing of the AT&T Access Tariff reflects detailed financial, minutes-of-use, demand, revenue, and rate design information related to intrastate switched access service that is not publicly disclosed. This information could have economic value to potential competitors and is highly sensitive.

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

The information requested to be protected is related to intrastate switched access service and would be of value to competitors as they develop their pricing strategies.

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

The information sought to be protected is not provided to the public because of its competitive value. It is retained within AT&T Midwest and is only available to those employees with a need to know and outside consultants who are subject to a non-disclosure agreement. AT&T security guidelines and procedures protect the information from disclosure to unauthorized persons inside or outside of the company.

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

Competitors and suppliers of telecommunications services would obtain economic value from the information sought to be protected. The minutes-of-use, demand, revenue, and rate design data would assist in the development of pricing strategies and network design.

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

All of the other local exchange carriers filing revised intrastate access filings in July 2012, pursuant to the Federal Communications Commission's Order of November 18, 2011, regarding Inter-carrier Compensation Reform, FCC 11-161, as well as other providers of telecommunications services and equipment would find the information sought be protected to have competitive value.

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

The information sought to be protected is treated as confidential and proprietary information within AT&T. Only those employees with a need to know and outside consultants who are subject to a non-disclosure agreement have access to this information. With AT&T, the information is noted as confidential and proprietary and its use is governed by AT&T security procedures.

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. AT&T indicates that the information is highly confidential, and is not available through any source other than through 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