

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SRT Communications, Inc.
Access Services

Case No. PU-12-286

**STAFF RESPONSE TO THE REQUEST OF SRT'S APPLICATION FOR TRADE
SECRET PROTECTION**

On June 7, 2012 SRT Communications, Inc. (SRT 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). Applicant 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 SRT Access Tariff reflects detailed financial, minutes-of-use, demand, revenue, and rate design information that is only known to SRT and their authorized agents. This information submitted with this application is highly confidential in that it is only maintained by SRT and not available through any source other than SRT or their authorized agents. Furthermore, this information could have economic value to potential competitors, and in a competitive telecommunications marketplace, this type of information is highly sensitive and its public disclosure would place SRT at a competitive disadvantage.

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

The information could have economic value to potential vendors, contractors, and suppliers who may desire to supply components of services being offered by SRT. Additionally, competitors may wish to “cherry pick” and based on this information, decide to target certain parts of the various SRT service territory where the revenue potential is greatest. Competitors could use such information against SRT’s interest in the course of submitted proposals as well as in developing their own business plans.

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

The confidentiality of the information has been maintained by SRT. The information is not disclosed to the public or to persons other than employees or authorized agents or SRT who need to know the information to fulfill their responsibilities in connection with the project or to third persons pursuant to agreement to maintain the confidentiality of the information.

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

Competitive Local Exchange Carriers, potential equipment and material vendors, contractors, and other suppliers of telecommunications services would obtain economic value from disclosure of the costs, demand, minutes-of-use, and other confidential information.

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.

The confidentiality of the information has been maintained by SRT. The information is not disclosed to the public or to persons other than employees or authorized agents of SRT who need to know the information to fulfill their responsibilities in connection with the project or to third persons pursuant to agreement to maintain the confidentiality of the information.

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."

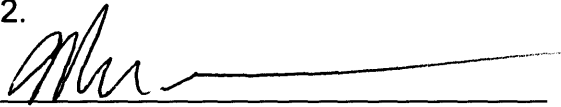
N.D. Admin Code North Dakota Administrative Code section 69-02-09-04 requires that the "commission staff examine the information and application and make a prima facie recommendation of whether the information is relevant and a trade secret under the definition of trade secret in North Dakota Century 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. SRT indicates that the information is highly confidential, and is not available through any source other than through SRT 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