

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

**Midcontinent Communications  
Access Services**

**Case No. PU-12-287**

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

On June 8, 2012 Midcontinent Communications (Midcontinent 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.**

2011 revenue, and rate and minute, information for Midcontinent.

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

The information indicated in Staff response paragraph 1 above is not publicly disclosed by Midcontinent. In a competitive telecommunications marketplace, this type of information is highly sensitive and its public disclosure would place the Company at a competitive disadvantage. If disclosed publicly, the information would disadvantage Midcontinent as the information reflects specifics regarding the Company's business activities.

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

The information at issue is proprietary to Midcontinent is available only to those employees and representatives of Midcontinent who have a need to know concerning the information to perform their duties and responsibilities. Midcontinent does not disclose this information outside the company except pursuant to the terms of strict agreements or orders 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.**

Competitors or potential competitors of Midcontinent would obtain economic value from disclosure or use of the information.

**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 Midcontinent in North Dakota includes Qwest Corporation, Consolidated Telecom, Dakota Central Telecom I, Missouri Valley Communications, North Dakota Telephone Company, Turtle Mountain Communications, United Telephone Mutual Aid Corporation, AT&T, Sprint Corporation, and any other provider of telecommunications services in North Dakota or any of the other states in which Midcontinent operates.

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

Please see Staff response to 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.”

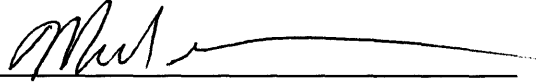
N.D. Admin Code North Dakota Administrative Code section 69-02-09-04 requires that the “commission staff examine the information and application and make a prima facie recommendation of whether the information is relevant and a trade secret under the definition of trade secret in North Dakota Century 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. Midcontinent indicates that the information is highly confidential, and is not available through any source other than through Midcontinent 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 13<sup>th</sup> day of June, 2012.



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Mark Gruman  
Legal Counsel  
North Dakota Public Service Commission