

# STATE OF NORTH DAKOTA

## PUBLIC SERVICE COMMISSION

**Red River Rural Telephone Association  
2012 High-Cost Universal Service Support  
Annual Report**

**Case No. PU-12-402**

**Loretel Systems, Inc.  
2012 High-Cost Universal Service Support  
Annual Report**

**Case No. PU-12-403**

### ORDER GRANTING TRADE SECRET PROTECTION

**October 24, 2012**

On June 21, 2012, the attorney for Loretel Systems, Inc. filed an application for trade secret protection in Case No. PU-12-403. On June 22, 2012, Red River Rural Telephone Association filed an application for trade secret protection in Case No. PU-12-402, under North Dakota Administrative Code Ch. 69-02-09, asking the Commission to protect against public disclosure certain information filed by each company in compliance with the Commission's requirements regarding each company's annual Eligible Telecommunications Company report filing.

On October 22, 2012, North Dakota Public Service Commission Staff filed and served its response to the requests, recommending the Commission approve the requests.

North Dakota Administrative Code § 69-02-09-04 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the requests of the captioned companies for protection of information.

The applications ask the Commission to protect the following information for each company from disclosure:

1. The amount of high-cost support received by the company in 2011 and a description, with project specific information, of how that support was used for the provision, maintenance or upgrading of each company's facilities and services, including an estimate of the amount of federal high-cost universal service support each company anticipates receiving in 2013 and a description, with project specific information, of how that support is projected to be used for the provision, maintenance or upgrading of each respective company's facilities and services;

2. Detailed information on each outage of over 30 minutes experienced by each respective company in 2011, including the geographic area, start and end times, description, resolution, service affected, number of customers affected and step taken to prevent similar situations.

The applications state that the information sought to be protected derives independent economic value from not being generally known to other persons, and restricting disclosure is necessary to prevent substantial harm to the company and maintain each company's competitive position. Further, the companies assert that the information is not readily ascertainable by other means and they take precautions to limit disclosure. Finally, the companies assert that the information they seek to protect is protected by the Federal Communications Commission (FCC) under federal rules.

North Dakota Century Code § 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. N.D.C.C. § 44-04-18.4(1). Commercial and financial information can be protected from disclosure if the information has not been previously disclosed and disclosure would impair the Commission's ability to obtain similar information in the future or would cause competitive injury to the person providing the information. N.D.C.C. §§ 44-04-18.4(2)(a) and 44-04-18.4(2)(b). Proprietary and trade secret information can be protected when the information derives independent economic value from not being generally known to or readily ascertainable by other persons, and is the subject of reasonable efforts to maintain its secrecy. N.D.C.C. §§ 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Further, the financial information provided to the Commission is considered confidential by the FCC under 47 C.F.R. §§ 0.0457 and 0.0459. The FCC also considers information in outage reports to be highly sensitive and protects the information from public dissemination in the Freedom from Information Act. N.D.C.C. §44-04-18(1), as interpreted by the North Dakota Attorney General, allows a state agency to provide confidentiality protection of information if the information is specifically protected under federal regulation.

## Order

The Commission orders:

1. The 2012 application of Loretel Systems, Inc., identified in the respective captioned case for protection of information is GRANTED;
2. The 2012 application of Red River Rural Telephone Association, identified in the respective captioned case for protection of information is GRANTED.

### PUBLIC SERVICE COMMISSION



**Kevin Cramer**  
Commissioner



**Brian P. Kalk**  
Chairman



**Bonny M. Fetch**  
Commissioner