

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

**Tesoro High Plains Pipeline LLC  
2012  
Ten Year Plan**

**Case No. PU-12-457**

**STAFF RESPONSE TO THE REQUEST OF TESORO HIGH PLAINS PIPELINE LLC  
FOR TRADE SECRET PROTECTION**

On June 29, 2012 Tesoro High Plains Pipeline Company LLC (THPP) 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.**

Confidential information in THPP Ten-Year Plan related to THPP's proprietary operations, including: (i) the pipeline's maximum operating pressure,(ii) capacity information of pump stations, and (iii) plans regarding the future expansion of the THPP pipeline system and new operations that THPP has not publically disclosed.

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

Applicant states the information described above is proprietary information that, if disclosed to the public generally, could adversely affect THPP. In particular, the information referred to in Item No. 1 above could give an undue economic advantage to THPP's competitors in the oil transportation industry since it would allow them to make

business decisions with inside information. In addition, it could also provide information that competitors could use to frustrate new projects that are still in the planning stage.

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

Applicant indicates the information that is the subject of the Application has always been maintained as confidential by THPP. The information has not been disclosed to the public or to persons other than employees or authorized agents of THPP who need to know the information to fulfill their responsibilities in connection with the operation of THPP.

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

Applicant states that other utilities that refine, ship, or transport crude petroleum products through the North Dakota pipeline systems as well as potential competitors for the incremental crude oil that THPP hopes to attract to its pipeline would obtain economic value from the disclosure 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.**

Please see Staff's response under paragraph 4 above.

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

Applicant indicates it has ensured that all of the individuals involved in the planning and implementation of the confidential projects mentioned in the most recent Ten-Year Plan are obligated to maintain the confidentiality of this material.

Staff has reviewed Applicants' 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 the information relates to proprietary operations contained in THHP's Ten-Year Plan. Applicant indicates the proprietary operations information contained in its application has always been maintained as confidential. Additionally, according to the Applicant, it has ensured that all individuals involved in the planning and implementation of the confidential projects mentioned in the most recent Ten-Year Plan are obligated to maintain the confidentiality of this material. 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 3<sup>rd</sup> day of July, 2012.

  
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Tara Brandner  
Legal Intern  
North Dakota Public Service Commission

Dated this 31<sup>st</sup> day of July, 2012.

  
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Mark Gruman  
Legal Counsel  
North Dakota Public Service Commission