



# Public Service Commission

## State of North Dakota

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October 31, 2017

Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Blvd. Ave. Dept. 408  
Bismarck, ND 58505-0480

*via hand delivery*

Re: Total Call Mobile, Inc.  
Designated Eligible Carrier  
Application

Case No. PU-12-820

Dear Mr. Nitschke:

Enclosed is a Staff Response to the 04 December 2013 Application for Protection of Information in the captioned case.

Best regards,

John Schuh  
Legal Counsel

Enclosure

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION** was, on Oct. 31<sup>st</sup> 2017, served on the following by regular mail:

Amy Inagaki – Counsel  
Total Call Mobile, Inc.  
1411 w. 190<sup>th</sup> St., Suite 700  
Gardena, CA 90248

Dated this 31<sup>st</sup> day of October 2017.

  
\_\_\_\_\_  
John Schuh  
Legal Counsel

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

**Total Call Mobile, Inc.  
Designated Eligible Carrier  
Application**

**Case No. PU-12-820**

**STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION**

On 4 December 2013, Total Call Mobile, Inc. (TCM or the Company) filed an application for protection of information, asserting that the information for which protection was requested qualified as exempted from discovery under N.D.C.C. section 44-04-18. While N.D.C.C. § 44-04-18 was not a correct section, Staff believes the Company intended protection be granted under 44-04-18.4.

The information of which the Company seeks protection is insight into the Company's "business structure and strategies"; and legal commercial, customer and/or other information that TCM considers confidential. The information provided summarizes records "obtained, compiled, or prepared" by the federal agency in the course of ongoing investigations that seek to "monitor and enforce compliance with the law." TCM asserts that disclosure may infringe upon TCM's proprietary rights or expose TCM to undue harm and unfair competitive advantage if disclosed to third parties. TCM also asserts that the information has not been previously publicly disclosed, to the best of their knowledge.

The company asserts that if this information were disclosed, it would "impair the Commission's future ability to obtain necessary information." The company states that requiring a company to publicly disclose audit results and details of ongoing federal investigations, which have been treated as confidential at the federal level, would have

an effect on applicants' willingness to share information with the Commission in the future.

N.D. Admin Code § 69-02-09-03 requires commission staff to examine the information and application and make a recommendation on whether the information qualifies for protection. While unsure about the relevancy of the older information for protection, Staff believes that TCM's application satisfies the requirements of the North Dakota Century Code for protection of the information.

For reasons set forth above, Staff recommends that the Commission grant the application of TCM to protect certain information filed in this case.

Dated this 31<sup>st</sup> day of October, 2017.



John Schuh  
Legal Counsel  
North Dakota Public Service Commission