



Public Service Commission  
State of North Dakota

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23 September 2013

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

Re: Boomerang Wireless, LLC  
Designated Eligible Carrier  
Application  
PU-13-203

Dear Mr. Nitschke:

Enclosed is a Staff Response to the Application for Trade Secret Protection in the captioned case.

Best regards,

Illona A. Jeffcoat-Sacco  
PSC General Counsel

c/w enclosures via e-mail: Wade C. Mann ([wmann@crowleyfleck.com](mailto:wmann@crowleyfleck.com))

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Boomerang Wireless, LLC  
Designated Eligible Carrier  
Application**

**Case No. PU-13-203**

**STAFF RESPONSE TO THE REQUEST OF BOOMERANG WIRELESS, LLC FOR  
TRADE SECRET PROTECTION**

On 5 August 2013 Boomerang Wireless, LLC (Boomerang) filed an application to protect certain trade secret information requested from Boomerang by the Commission. The application is filed under North Dakota Administrative Code chapter 69-02-09.

Boomerang notes the protection from open record disclosure for certain information afforded in N.D.C.C. Section 44-04-18.4, and the Commission's rules and procedure for protecting trade secret information. The document for which Boomerang seeks protection details Boomerang's internal protocol for identifying duplicate accounts. The information derives actual independent economic value because it describes a proprietary process by which Boomerang very accurately identifies duplicate Lifeline accounts. The process permits Boomerang to comply with applicable laws and avoid fines while at the same time retaining Lifeline customers that other companies with a less accurate process would likely feel compelled to drop from their Lifeline programs for fear of incurring fines.

The information in the document is not readily ascertainable by proper means by other persons because it consists of a protocol developed internally and maintained in a confidential manner by the company.

Boomerang's competitors in the Lifeline market would obtain economic value from disclosure or use the information, because their use of Boomerang's process would permit them to more accurately discern between duplicate and acceptable Lifeline accounts. In other words, Boomerang's proprietary process would permit competitors in the Lifeline market to retain customers that they would otherwise feel compelled to drop for risk of incurring fines or other penalties.

North Dakota Century Code Section 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. North Dakota Century Code Section 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. North Dakota Century Code Sections 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. North Dakota Century Code Sections 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Staff believes that Boomerang's application satisfies the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

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

Dated this 23<sup>rd</sup> day of September, 2013.



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Illona A. Jeffcoat-Sacco  
General Counsel  
North Dakota Public Service Commission