

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA



New Cingular Wireless PCS, LLC
Eligible Telecommunications Carrier (“ETC”)
Annual Report

Re: Filing required pursuant to
NDAC §69-09-05-12.1

APPLICATION FOR TRADE SECTION PROTECTION
BY NEW CINGULAR WIRELESS PCS, LLC

Pursuant to NDAC Ch. 69-02-09, Trade Secret Procedures, and NDCC § 44-04-18.4, New Cingular Wireless PCS, LLC (“New Cingular”) applies for trade secret protection for the following documents filed as part of New Cingular’s Annual Eligible Telecommunications Carrier (“ETC”) Use of Federal Universal Support Certification. New Cingular requests confidential treatment for the following information, which is filed in a separate, sealed envelope:

Confidential Exhibit A-1: This exhibit is New Cingular’s progress report on the previously filed Service Improvement Plan for New Cingular for calendar year 2012, along with a slightly revised Service Improvement Plan for calendar year 2013 and a new Service Improvement Plan for calendar year 2014 based on New Cingular’s projected federal ETC support.

Confidential Exhibit A-2: This exhibit is a map depicting cell sites added in 2012 and coverage as of the end of that year and also depicting planned cell site locations for calendar year 2013 and 2014.

Confidential Exhibit C: This exhibit provides the number of outages along with detailed information for each outage.

Confidential Exhibit D: This exhibit provides detailed information on New Cingular’s unfulfilled service request, including the customer’s address.

The above information constitutes trade secret and is exempt from public disclosure under Chapter 69-02-09 of the North Dakota Admin. Code. Pursuant to NDAC § 69-02-09-03, the commission will examine whether the information meets the definition of trade secret in NDCC § 47-25.1-01. North Dakota Cent. Code § 47-25.1-01(4) defines trade secret as:

...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 and use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

New Cingular is required to disclose to the Commission the information in the above referenced exhibits as part of its annual ETC recertification filing. All of these documents contain valuable proprietary information regarding New Cingular's telecommunications network in North Dakota, the public disclosure of which would cause serious competitive harm to the company. Disclosure of these materials would reveal confidential details pertaining to New Cingular's network infrastructure, customer base, and the company's competitive position in the North Dakota telecommunications marketplace. Because this information goes to the heart of the company's business planning and competitive strategy, its public disclosure would be both economically damaging to New Cingular and economically advantageous to its competitors. The company does not generally disclose this type of information and takes reasonable steps to maintain its secrecy. Last year in response to a similar request in conjunction with New Cingular's 2012 Annual ETC Report and Certification, the Commission found that the same type of information contained in Confidential Exhibit A-1 and A-2 was trade secret information that should be protected. See Order dated October 24, 2012, PU-11-533 and PU-12-504.

New Cingular's report of outages in Confidential Exhibit C is also highly proprietary and its disclosure would cause competitive harm of the company as well as providing information that would reveal or otherwise identify potential weakness in the telecommunications system that could be taken advantage of by competitors or others. If a competitor accesses information regarding the number and duration of the company's outages, and the company's response to the outages, the competitor could gain an enhanced understanding of New Cingular's infrastructure and technology, including its strong and weak points. Further, similar outage information is afforded confidential protection by the Federal Communications Commission ("FCC") pursuant to 47 C.F.R. 4.2 for a number of reasons, including the security of the telecommunications network. North Dakota Cent. Code §44-04-18.4, as interpreted by the North Dakota Attorney General, allows a state agency to provide confidentiality protection of information if the information is specifically protected by federal regulation. See 2001 N.D. Op. Atty. Gen. No. F-10, 2001 WL 1700251, *2 (N.D.A.G.). New Cingular seeks similar protection for Confidential Exhibit D, on the same grounds as set forth above for Confidential Exhibit C.

New Cingular respectfully requests that its application requesting trade secret protection for Confidential Exhibits A-1, A-2, C and D be granted.

New Cingular Wireless PCS, LLC

Dated this 31 day of July, 2013.



BY: Jacob T. Rodenbiker (#06497)

jrodenbiker@vogellaw.com

VOGEL LAW FIRM

US Bank Building

200 North 3rd Street, Suite 201

PO Box 2097

Bismarck, ND 58502-2097

(701) 258-7899

Attorneys for New Cingular Wireless PCS, LLC