



September 26, 2014

Hand Delivered

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

Re: *In the Matter of the Application of Tempo Telecom, LLC
For Designation as an Eligible Telecommunications Carrier
Case No. PU-14-34
Our File No. 90-588-001*

Dear Mr. Nitschke:

Please find enclosed for filing the original and ten copies of Application of Tempo Telecom, LLC to Protect Information.

Also enclosed but not to be filed is a sealed envelope marked "TRADE SECRET - PRIVATE" containing information described in the Application to Protect Information referenced above.

If you have any questions or need any additional information, please contact me at your earliest convenience. Thank you.

Sincerely,

CROWLEY FLECK PLLP


Stephanie Dassinger

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enc.

In the matter of the Application of)
 Tempo Telecom, LLC)
 For Designation as an)
 Eligible Telecommunications Carrier)

Under North Dakota's open records law, "all records of a public entity are public records" unless an exception applies. N.D.C.C. § 44-04-18. Trade secret information is exempt from disclosure under North Dakota's open records law. *See* N.D.C.C. § 44-14-18.4. In recognition of that fact, this Commission's regulations provide a process by which an applicant may request trade secret protection for its filings. *See* N.D.A.C. chap. 69-02-09. The Commission will protect information that qualifies for the definition of "trade secret" under N.D.C.C. § 47-25.1-01. *See* N.D.A.C. § 69-02-09-03. That definition provides:

"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.C.C. § 47-25.1-01(4).

The documents submitted with this application qualify for trade secret protection under N.D.A.C. § 69-02-09. Below is an explanation of why the 2013 Financial Statements, January 2014 through July 2014 Financial Statements, and the 2014 and 2015 Financial Projections (collectively "Financial Documents") satisfy each of the six requirements for protection set forth in N.D.A.C. § 69-02-09-01:¹

1. The Financial Documents detail Tempo's financial status for 2013, and for January 2014 through July 2014. The Financial Documents also provide Tempo's financial projections for the years 2014 and 2015.
2. The information derives actual or potential independent economic value because disclosure might allow Tempo's competitors to better compete with it.

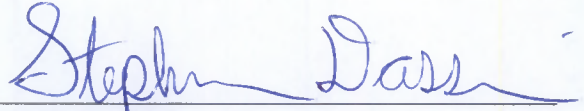
¹ Pursuant to N.D.A.C. § 69-02-09-01, an application for trade secret protection must include:

1. A general description of the nature of the information sought to be protected;
2. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
3. An explanation of why the information is not readily ascertainable by proper means by other persons;
4. A general description of the persons or entities that would obtain economic value from disclosure or use of the information;
5. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing; and
6. A description of the efforts used to maintain the secrecy of the information.

3. The information in the document is not readily ascertainable by proper means by other persons because Tempo is a privately owned limited liability company. As a limited liability company, Tempo's financial information is not subject to public disclosure. Further, the Financial Documents are treated as confidential within the company.
4. Tempo's competitors in the telecommunications market would obtain economic value from disclosure or use of the information
5. This is not a tariff or rate filing, so the requirement set forth in N.D.A.C. § 69-02-09-01(5) does not apply.
6. The Financial Documents are treated as confidential documents within the company, and only provided outside Tempo in limited circumstances. Only those persons required to access the financial data are provided with the Financial Documents. The detailed financials are being provided to state commissions only under protection of confidential treatment and/or a protective order. The detailed financials have never been publicly disclosed. Tempo has publically disclosed limited financial information in regulatory proceedings; however, the detailed financial documents have never been publically disclosed.

Accordingly, Tempo respectfully requests that the Commission grant its application to protect information, allow the relevant information to be filed confidentially, and enter an appropriate protective order limiting disclosure of the information.

Dated this 26th day of September, 2014.



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