

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Blue Jay Wireless, LLC
Designated Eligible Carrier
Application

Case No. PU-14-720

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On 21 November 2014, Blue Jay Wireless, LLC (Blue Jay or Company) filed two applications (Applications) for protective order to protect against public disclosure of training and financial information that Blue Jay filed with the Commission, qualifying as an exemption to N.D.C.C. section 44-04-18.

Blue Jay states that the training and financial materials submitted with the applications qualify for trade secret protection under North Dakota Administrative Code Section 69-02-09. Blue Jay contends that the training materials detail Blue Jay's process for training its agents to identify duplicate accounts and prevent fraud in order to comply with the law and avoid fines. Blue Jay also contends that financial documents detail Blue Jay's financial status for 2013 and 2014 year to day through August 2014 are trade secret.

The Company states that the training information derives actual independent economic value because other companies would be able to duplicate Blue Jay's agent training and recertification process and better compete with Blue Jay in the Lifeline market. The financial information derives actual or potential independent economic value because disclosure might allow Blue Jay's competitors to better compete with it in the telecommunications market.

The Company states that the training information is not readily ascertainable by proper means by other persons because this information is only distributed to Blue Jay's agents during the training and recertification process. The training materials are maintained in a confidential manner by Blue Jay.

The financial information is not readily ascertainable by proper means by other persons because Blue Jay is a privately owned limited liability company. As a limited liability company, as opposed to a publicly traded company, Blue Jay's financial information is not subject to public disclosure pursuant to securities laws or regulations. Further, the financial documents are treated as confidential within the company.

North Dakota Century Code Section 44-04-18.4(2) exempts the Commission from having to provide records that are trade secret, proprietary, commercial, financial, and research information if the information has not been previously publically disclosed. North Dakota Century Code Section 44-04-18.4(1).

After review, Staff agrees that the financial documents are subject to trade secret protection. However, Staff does not believe that Applications demonstrated a basis for protecting the training materials.

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

Dated this 11th day of December, 2018.



John Schuh
Legal Counsel
North Dakota Public Service Commission