

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

**Qwest Corporation**  
**Switched Access**  
**Price Schedule**

**Case No. PU-17-225**

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

On 26 May 2017, Qwest Corporation (Qwest) filed an application for a protective order under North Dakota Administrative Code section 69-02-09-01 to protect against public disclosure of protected information as defined by North Dakota Century Code section 47-25.1-01(4). Qwest provided the following to support its application:

**1. General Description of the Nature of the Information Sought to be Protected.**

Qwest's filing contains an ICC Model, comprising of knowledge, data and facts collected and recorded by Qwest to satisfy mandatory regulatory reporting requirement, which is competitively sensitive. All of the confidential information being submitted is viewed as highly proprietary by Qwest and is closely guarded to maintain its confidentiality. The data at the level of detail being submitted by Qwest are closely guarded by all carriers offering access services, and if Qwest's confidential information became available to its competitors, they could use such data to target certain areas of Qwest's services and customers to their unfair competitive advantage.

**2. An Explanation of Why the Information Derives Independent Economic Value, Actual or Potential, From Not Being Generally Known to Other Persons.**

The information for which Qwest seeks trade secret protection contains confidential and proprietary information regarding an ICC Model, comprising of knowledge, data and facts collected and recorded by Qwest to satisfy mandatory regulatory reporting requirements, which is competitively sensitive. This information

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. Release of this information to competitors would unfairly enable them to make strategic and tactical decisions that would be harmful to the success and profitability of Qwest.

**3. An Explanation of Why the Information is Not Readily Ascertainable by Proper Means by Other Persons.**

The information at issue is proprietary to Qwest and is available only to those employees and representatives who have a need to know the information to perform their duties and responsibilities. Qwest also has agreements in place protecting the confidentiality of this information.

**4. A General Description of the Persons or Entities that would Obtain Economic Value from Disclosure or Use of the Information.**

Competitors or potential competitors of Qwest that provide local exchange service and other telecommunications service would obtain economic value from disclosure or use of the information.

**5. A Specific Description of Known Competitors and Competitor's Goods and Services that are Pertinent to the Tariff or Rate Filing.**

Competitors and potential competitors of Qwest in North Dakota include AT&T Communications of the Midwest, Inc., McLeodUSA Telecommunications Services, Inc., MCImetro Access Transmission Services, LLC, Sprint Communications Company L.P., and Midcontinent Communications and any other provider of telecommunications services in North Dakota or any of the other states in which Qwest operates.

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 Qwest'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 Qwest to protect certain information filed in this case.

Dated this 15<sup>th</sup> day of April, 2018.



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John Schuh  
Legal Counsel  
North Dakota Public Service Commission

**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 2 April 2019, served on the following by email:

**Kent Blickensderfer - Qwest (kblickensderfer@msn.com)**

Dated this 2nd day of April 2019.

  
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John Schuh  
Legal Counsel