

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

**North Dakota 5 – Kidder Limited Partnership  
2018 High-Cost Universal Service Support  
Annual Report**

**Case No. PU-18-52**

**ORDER ON PROTECTION OF INFORMATION**

**APRIL 13, 2022**

On July 30, 2018, North Dakota 5 – Kidder Limited Partnership (the company) filed an application for a protective order under North Dakota Administrative Code Section 69-02-09 for protecting against public disclosure protected information as defined by North Dakota Century Code Section 47-25.1-01(4).

The information requested to be considered trade secret/confidential is Confidential Exhibits A-1, A-2, and A-3 to the Company's "USE Report"; a few narrative passages describing the contents of Confidential Exhibits A-1, A-2, and A-3; and Confidential Exhibit B, the Company's "ETC Outage Report" with the North Dakota Public Service Commission ("Commission"). North Dakota Administrative Code Section 69-02-09-03 requires that Commission staff examine the information and application and make a recommendation to the Commission.

The information provided by the company is also provided to the Federal Communications Commission (FCC) and is treated as confidential by the FCC. The Commission has previously treated information that is provided to the FCC and treated by the FCC as confidential information as protected information and cites to PU-07-595. Staff recommended information in that case acknowledged the North Dakota Attorney General has interpreted that N.D.C.C. §44-04-18(1) regarding protected information

allows a state agency to provide confidentiality to protection of information if the information is specifically protected under federal regulation. Additionally, North Dakota Administrative Rules (N.D.A.R.) 69-02-09-13(5) state that financial information required by the FCC be copied to the Commission, accompanied by the filing of a copy of the FCC's protective order for that information.

Additionally, under N.D.C.C. 44-04-18.4(2)(d) the information which the company is requesting protection for qualifies as "trade secret" as it is information that is compiled that would derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information.

The application satisfies the requirements of the North Dakota Century Code for protection of information, and the information requested to be protected 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 is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

#### **Order**

The Commission orders:

1. The specified information be withheld from public disclosure and the Public Service Commission website.
2. That availability to the specified information be limited to the Administrative Law Judge, the Commission, counsel, and Staff assigned to the captioned case.

PUBLIC SERVICE COMMISSION

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chair

  
Sheri Haugen-Hoffart  
Commissioner