

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Loretel Systems, Inc.
2018 High-Cost Universal Service Support
Annual Report

Case No. PU-18-301

ORDER ON PROTECTION OF INFORMATION

APRIL 13, 2022

On August 1, 2018, Loretel Systems, Inc. (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 Item 1 to Trade Secret Exhibit A, which contains a description and the amount of high-cost universal service support received by the company in 2017 and a description, with project specific information, of how that support was used for the provision, maintenance, or upgrading of the company's facilities and services; item 2 to Trade Exhibit A, which includes an estimate of the amount of federal high-cost universal service support the company anticipates receiving in 2019 and a description, with project specific information, of how that support is projected to be used for the provision, maintenance, or upgrading of the company's facilities and services pursuant to Section 254 of the Telecommunications Act of 1996; item 3 to Trade Secret Exhibit A, which includes detailed information regarding the telecommunications infrastructure projects that the company completed in 2017 and those forecasted for 2019; and item 4 to Trade Secret Exhibit A, which contains detailed information of each outage of over 30 minutes in

duration experienced by the company in its ETC-designated service area in 2017, including the geographic area, the start and end time, a description, the resolution, the services affected, the number of customers affected, and steps taken to prevent similar situations, filed 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

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| <u>Randy Christmann</u> Commissioner | <u>Julie Fedorchak</u> Chair | <u>Sheri Haugen-Hoffart</u> Commissioner |