

**BEFORE THE NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

In the Matter of

Application of BEK Communications to  
Protect CAF and ICC Data

Case No. \_\_\_\_\_

**APPLICATION TO PROTECT INFORMATION REGARDING CAF AND ICC DATA**

The undersigned, on behalf of BEK Communications, does hereby state and certify as follows:

1. BEK Communications, hereinafter "BEK", requests proprietary and confidential designation of its Intrastate Revenues Report, Access Recovery Charges Report, Study Area USAC Reports, and Local Rate Floor Data Collection regarding its CAF and ICC Data.
2. Pursuant to the North Dakota Administrative Code, Section 69-02-09-01, NDAC, BEK represents that:
  - a) The information sought to be protected relates to BEK's revenues from multiple sources. The amount and sources of BEK's revenues for intra state wireless access are the subject of on-going litigation between Tier I wireless carriers and incumbent local exchanges such as BEK. The litigation is captioned: *MCI Communications Services, Inc. and Verizon Select Services, Inc. v. BEK Communications Cooperative, et al.*, U.S. District Court for the District of North Dakota Case No. 3:14-cv-00088-KKK, consolidated with U.S. District Court for the Northern Division of Texas, Civil Action No. 3:14-MD-2587-D (MDL No. 2587). See attached Exhibit A (Complaint naming BEK as a Defendant). This case is currently on appeal to the U.S. Fifth Circuit Court of Appeals, Case No. 18-10768.

The captioned litigation may require BEK to disclose revenue data for previous fiscal years and the current fiscal year. While the litigation is pending, BEK believes the information should be disclosed only as required pursuant to the Federal Rules of Civil Procedure and the U.S. District Court's Orders regarding discovery in the captioned case.

- b) The requested protection is based on the work product doctrine in civil litigation. BEK believes that certain information could be used by Tier I plaintiffs in the subject litigation to the disadvantage of BEK.


- c) BEK contends the information is trade secret, but BEK has identified a separate, distinct basis for protecting the information and relies on protecting its rights within the above captioned litigation.
- d) BEK has identified the basis of protection in (1) above.

Dated this 15<sup>th</sup> day of June, 2020.

Respectfully submitted,

**BEK Communications**

By:



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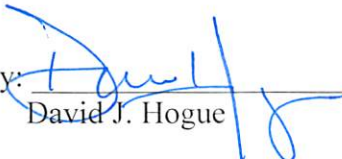
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, in accordance with the sections 69-02-01-03 and 69-02-02-04(2) of North Dakota Administrative Code, the foregoing Application upon the North Dakota Public Service Commission via electronic mail at the following address:

Executive Secretary  
North Dakota Public Service Commission  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)

Dated this 15<sup>th</sup> day of June, 2020.

By:

  
David J. Hogue