

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Loretel Systems, Inc.
2020 High-Cost Universal Service Support
Annual Report

Case No. PU-20-267

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On August 24, 2020, 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 which the Company requests be considered trade secret/confidential is Exhibit A which contains a description and the amount of high-cost universal service support received by the Company in 2019 and a description of how that support was used for the provision, maintenance, or upgrading of the Company's facilities and services, an estimate of the amount of federal high-cost universal service support the Company anticipates receiving in 2020 and a description 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, detailed information regarding the Telecommunications Infrastructure projects completed during 2019 and those forecasted for 2021, and detailed information of each outage of over 30 minutes in duration experienced by the Company in its ETC-designated service area in 2019, 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 the 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 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 that the North Dakota Attorney General has interpreted 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) states that financial information required by the federal communications commission to be copied to the commission, accompanied by the filing of a copy of the federal communications commission'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.

Staff believes that the application satisfies the requirements of the North Dakota Century Code for protection of information, and that the information requested to be