

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE INDIANA)
UTILITY REGULATORY COMMISSION'S)
OBLIGATIONS PURSUANT TO HEA 1279)
FOR THE PROTECTION OF CERTAIN)
INFORMATION PROVIDED IN RESPONSE)
TO THE 2012 INFORMATION REQUEST TO)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS ("ETC") AS CONFIDENTIAL)
PURSUANT TO IND. CODE § 5-14-3-4.)

CAUSE NO. 44180

APPROVED: APR 18 2012

ORDER OF THE COMMISSION

PRESIDING OFFICERS:

Larry S. Landis, Commissioner
Jeffery Earl, Administrative Law Judge

On March 14, 2006, the Governor of the State of Indiana signed into law House Enrolled Act 1279 ("HEA 1279"), as enacted by the 2006 Indiana General Assembly. Pursuant to Ind. Code § 8-1-2.6-4, as amended, the Indiana Utility Regulatory Commission ("Commission") must report annually to the Regulatory Flexibility Committee of the Indiana General Assembly ("Legislature") regarding the effects of competition and technological change on universal service and pricing for Indiana telecommunications services. See Ind. Code §§ 8-1-2.6-4 and 8-1-1-2. Explicit in this mandate is the obligation to safeguard the confidential nature of potentially sensitive material submitted to the Commission. See Ind. Code §§ 8-1-2.6-13(d)(9), 8-1-32.5-6(a)(9)(B), and 8-1-32.5-6(d).

Consistent with these regulatory obligations, the Commission will be issuing a 2012 Information Request to ETCs ("Information Request") to gather data for the Commission's report to the Legislature. In this Cause, the Commission creates a streamlined procedure for ETCs to submit confidential information in response to the Information Request.

1. Commission Jurisdiction. The Commission is required to safeguard the confidential nature of potentially sensitive material submitted to the Commission. Ind. Code §§ 8-1-2.6-13(d)(9) and 8-1-32.5-6(d). The Commission may also prescribe such regulation as it sees fit regarding the submission of confidential documents. 170 IAC 1-1.1-4. The Commission has previously found the types of information subject to the terms of this Order entitled to confidential protection.¹ Therefore, the Commission has jurisdiction over the subject matter of this proceeding to the extent provided by law.

2. Commission Discussion and Findings. Generally, if a party desires to file confidential information with the Commission, it must apply for a finding by the Commission that the information

¹ *TDS Metrocom*, Cause Nos. 42625, 42626, 42633, 42634, 42636, 42637, 42638, 2004 Ind. PUC LEXIS 252 at *22 (IURC June 30, 2004) (finding that due to increased competition, information regarding access lines derived "independent economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use").

is confidential. 170 IAC 1-1.1-4. Because the Commission expects that responses to the Information Request may result in the filing of multiple individual requests for confidential treatment of certain portions of the responses, the Commission hereby creates a single docketed proceeding to allow for the timely and efficient submission of the requests for confidentiality.

Requests for preliminary determinations of confidentiality filed in this Cause must comply with 170 IAC 1-1.1-4. The request must contain a sworn affidavit that describes the nature of the confidential information, the reasons why the material should be treated as confidential pursuant to Ind. Code §§ 8-1-2-29 and 5-14-3-4, and the efforts made to maintain the confidentiality of the material. See 170 IAC 1-1.1-4(b). The sworn statement must include sufficient, specific facts demonstrating the information is entitled to confidential treatment, rather than a general rehashing of the required elements. Trade secret information is generally defined as containing four elements: (1) information; (2) deriving independent economic value; (3) not generally known, or readily ascertainable by proper means by others who can obtain economic value from the information's disclosure or use; and (4) the subject of efforts, reasonable under the circumstances, to maintain its secrecy. *Burk v. Heritage Food Serv. Equip., Inc.*, 737 N.E.2d 803, 813 (Ind. Ct. App. 2000). Upon receipt of the request, the Presiding Officers will review the request and render a ruling as to whether the documents should be accorded confidential treatment.

The purpose of this docket is to allow for the submission of confidentiality requests, and subsequent filing of confidential responses to the Information Request upon receipt of a docket entry finding the information is entitled to a preliminary finding of confidentiality. **This Cause is not for submission of general responses to the Information Request itself – i.e., responses for which companies are not seeking confidential treatment. General, or non-confidential, responses should be submitted directly to the Commission's Communications Division staff in accordance with the instructions on the Information Request or submitted electronically using the Commission's EFS at: <https://myweb.in.gov/IURC/efs/>.**

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Any ETCs requesting confidential treatment of its responses to the 2012 Information Request to ETCs shall file such request in this Cause.
2. This Order shall be effective on and after the date of its approval.

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR; BENNETT ABSENT:

APPROVED: APR 18 2012

I hereby certify that the above is a true and correct copy of the Order as approved.


Brenda A. Howe
Secretary to the Commission