

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. C-4328/PI-176
Public Service Commission, on)
its own motion, to investigate)
issues related to the service)
quality associated with) ORDER ADOPTING PROTECTIVE
intrastate interexchange) ORDER
service including the)
origination, termination, and)
routing of interexchange)
calls.) Entered: June 14, 2011

BY THE COMMISSION:

PROTECTIVE ORDER

1. This Protective Order shall govern the use of all confidential information and documents produced by or on behalf of any of the Participants. This Protective Order shall cover the confidentiality of any and all information and materials filed or otherwise involved in any and all future matters. This Protective Order shall remain in effect until specifically modified or terminated by the Nebraska Public Service Commission.

2. A Participant may designate as protected those materials which customarily are treated by that Participant as sensitive and proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury.

3. Definitions -- For purposes of this Protective Order:

(a) The term "Confidential Material" means (i) materials provided by a Participant in the Investigation, work papers, responses to discovery requests and other materials designated by such Participant as protected; (ii) any information contained in or obtained from such designated materials; (iii) any other materials which are made subject to this Protective Order by the Commission or its staff, by any Court or other body having appropriate authority, or by

agreement of the Participant; (iv) notes of Confidential Materials; and (v) copies of Confidential Materials. The Participant producing the Confidential Materials shall physically mark them on each page as "CONFIDENTIAL" or with words of similar import as long as the term "Confidential Materials" is included in that designation to indicate that they are Confidential Materials in accordance with the Commission's Rules and Regulations.

(b) Confidential Materials shall not include (i) any information or document contained in the files of the Commission, any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court; or (ii) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order.

(c) The term "Notes of Confidential Material" means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 3(a). Notes of Confidential Materials are subject to the same restrictions provided in this Protective Order for Confidential Materials except as otherwise specifically provided herein.

(d) The term "Non-Disclosure Certificate" shall mean the certificate attached hereto as Appendix A and hereby incorporated by reference, by which Participants who have been granted access to Confidential Materials shall certify their understanding that such access to Confidential Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be filed with the Commission.

(e) The term "Reviewing Representative" shall mean a person who has signed a Non-Disclosure Certificate and who is:

- (1) an attorney who has made an appearance in this proceeding for a Participant;
- (2) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in (1);
- (3) an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for, or testifying in this proceeding;
- (4) a person designated as a Reviewing Representative by order of a Presiding Judge or the Commission; or
- (5) employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

Such Reviewing Representative shall not include an individual who has direct responsibilities in the areas of marketing, pricing or product development for any Participant to this proceeding or who will have those responsibilities in the foreseeable future. Any such witness or expert may be an employee of a Participant provided that such employee's duties are related to regulatory activities on behalf of the Participant and his or her duties are not related directly to marketing, pricing or product development for the Participant.

For purposes of Section 3(e), an "individual who has direct responsibilities in the areas of marketing, pricing or product development" shall not include an individual employed by any Participant to this proceeding who has oversight and management responsibilities for the overall operations of such Participant. Further, any counsel of record who has marketing,

pricing, product development, market analysis, market entry, or strategic planning responsibilities for any Participant to this proceeding or for any competitor of the disclosing Participant shall be entitled to review confidential information subject to signing the nondisclosure agreement and will be strictly limited to use of such information solely in this proceeding, or for preparation of and conduct of any appeals or subsequent FCC filing arising directly from this proceeding.

3. Confidential Materials shall be made available under the terms of this Protective Order to Participants and through their Reviewing Representatives as provided in Paragraphs 7, 8, and 9 of this Protective Order.

4. Confidential Materials shall be accessible to the Commission, Commission counsel, and Commission staff members and shall not be used or disclosed except for the purpose of conducting, issuing orders in, and otherwise participating in, this proceeding. The Commission, Commission counsel, and Commission staff members shall not be required to execute a certificate pursuant to Paragraph 9 below.

5. Confidential Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Confidential Material is concluded and is no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen (15) days of such request, return the Confidential Materials (excluding Notes of Confidential Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Confidential Materials and Notes of Confidential Material may be retained, if they are maintained in accordance with Paragraph 6 below. Within such time period

each Participant, if requested to do, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Confidential Materials and Notes of Confidential Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 6 of this Protective Order. To the extent Confidential Materials are not returned or destroyed, they shall remain subject to the Protective Order.

6. All Confidential Materials shall be maintained by Participants in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8 and 9 of this Protective Order. The Commission shall place any Confidential Materials filed with the Commission in a non-public file in accordance with its Rules and Regulations. By placing such documents in a non-public file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities.

7. Confidential Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9 below. Confidential Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding and who qualifies for access to such material pursuant to Paragraph 3(e) hereof. Reviewing Representatives may make copies of Confidential Materials, but such copies become Confidential Materials. Reviewing Representatives may make notes of

Confidential Materials, which shall be treated as Notes of Confidential Materials if they disclose the contents of Confidential Materials.

8. (a) If a Reviewing Representative's scope of employment includes the areas of marketing, pricing or product development, the direct supervision of any employee or employees whose duties include marketing, pricing or product development, the provision of consulting services to any person whose duties include the areas of marketing, pricing or product development, or the direct supervision of any employee or employees whose duties include the marketing, pricing, or product development, such Reviewing Representative may not use information contained by any Confidential Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

(b) In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 3(e) above, the Participant shall seek agreement from the Participant providing the Confidential Materials. If an agreement is reached, that person shall be a Reviewing Representative pursuant to Paragraph 3(e) above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Commission for resolution.

9. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Confidential Materials pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure

Certificate shall be provided to counsel for the Participant asserting confidentiality prior to disclosure of any Confidential Material to that Reviewing Representative.

(b) Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order.

10. Any Reviewing Representative may disclose Confidential Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Confidential Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(e), access to Confidential Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.

11. (a) This Protective Order establishes a procedure for the expeditious handling of information that a Participant claims is confidential; it shall not be construed as an agreement or ruling on the confidentiality of any document. Subject to Paragraph 11(f) of this Protective Order, the Commission or its designated Hearing Officer shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Commission or its designee, the parties to the dispute shall use their best efforts to resolve it. Any Participant that contests the designation of materials as protected shall notify the Participant that provided the Confidential Materials by specifying in writing the materials whose designation is contested. In any challenge to the designation of materials as

protected, the burden of proof shall be on the Participant designating the materials as Confidential.

(b) The Participant challenging the designation of materials as protected shall do so by filing a motion with the Hearing Officer which identifies with specificity the material challenged and requests a ruling whether the material is confidential.

(c) Within three business days of service of a motion for determination of confidentiality, the Participant claiming confidentiality shall deliver under seal all of the relevant documents and information to the Hearing Officer for an in camera inspection by the Hearing Officer.

(d) A ruling on the confidentiality of the challenged material shall be made by the Hearing Officer after an in camera hearing which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such confidential materials shall be present. Such hearing shall be held as expeditiously as is practicable following delivery of the relevant documents and information to the Hearing Officer.

(e) The record of said in camera hearing shall be marked "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER IN APPLICATION NO. C-4328/PI-176." Court reporter notes of such hearing shall be separately bound, segregated, sealed and withheld from inspection by any person who has not executed a Nondisclosure Agreement in accordance with this Order.

(f) If the Commission or its designated Hearing Officer finds at any time in the course of this proceeding that all or part of the Confidential Materials need not be protected, those materials shall nevertheless be subject to the protection afforded by this Protective Order for five business days from the date of issuance of the Commission's decision, and if the Participant seeking protection files an interlocutory appeal, for an additional seven business days. None of the Participants

waives its rights to seek additional administrative or judicial remedies after the Commission's decisions with respect to Confidential Materials, Reviewing Representatives, or the Commission's denial of any appeal thereof.

12. (a) All copies of all documents reflecting Confidential Materials, including any portion of hearing testimony, exhibits, transcripts, briefs and other documents which refer to Confidential Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER IN APPLICATION NO. C-4328/PI-176" and shall be filed under seal and served under seal upon the Commission. For any Confidential Materials filed under seal, with redactions or where an entire document is protected, a letter indicating such will also be filed with the Commission. Participants and Counsel for any Participant shall take all reasonable precautions necessary to assure that Confidential Materials are not distributed to unauthorized persons.

(b) If any Participant desires to include, utilize or refer to any Confidential Materials or information derived therefrom in testimony or exhibits during any hearing, workshop, or other event in these proceedings in such a manner that might require disclosure of such material to persons other than Reviewing Representatives, such Participant shall first notify both Counsel for the disclosing Participant and the Commission of such desire, identifying with particularity each of the Confidential Materials. Thereafter, use of such Confidential Material will be governed by procedures determined by the Commission in accordance with the provisions of its Rules and Regulations.

13. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Confidential Materials on any legal grounds.

14. Nothing in this Protective Order shall preclude any Participant from requesting the Commission, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Confidential Materials pursuant to this Protective Order. The Commission may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

15. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Hearing Officer or Commission.

16. All Confidential Materials filed with the Commission or any other judicial or administrative body in support of or as a part of a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers marked "CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER IN APPLICATION NO. C-4328/PI-176."

17. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

18. The contents of Confidential Materials or any other form of information that copies or disclose Confidential Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with these proceedings.

19. If information subject to a claim of attorney-client privilege, work product protection, or any other privilege or immunity is inadvertently produced, such production shall in no

way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of privilege, work product protection or other ground for withholding production to which any producing party would otherwise be entitled. Any inadvertently produced privileged materials shall be returned promptly to the producing party upon request and all copies destroyed.

20. The inadvertent failure to identify material as Confidential Information or to stamp a document as Confidential shall not be deemed a waiver of the protections afforded by this Protective Order. In such event, the producing party shall, promptly upon discovery of its oversight, provide written notice of the error and substitute appropriately-labeled Confidential Information. Any Participant receiving such improperly-labeled Confidential Information shall retrieve such Confidential Information from persons not entitled to receive the information and, upon receipt of the substitute Confidential Information, shall return or destroy the improperly-labeled Confidential Information.

21. Any person who violates this Protective Order by reason of unauthorized use, or disclosure or failure to keep the information confidential, may be liable for damages and penalties as provided by law, and any party accepting Confidential Information pursuant to this Protective Order acknowledges that monetary damages may not be sufficient and that injunctive relief is an appropriate remedy. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Confidential Materials.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission in the above-captioned matter that this Protective Order be, and is hereby, adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of June, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

EXHIBIT A

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. C-4328/PI-176

NONDISCLOSURE AGREEMENT

I hereby certify that I have been presented with a copy of the Protective Order in Application No. C-4328/PI-176 and certify that I have read the Protective Order, am familiar with the terms and conditions of the Protective Order, and agree to abide by its terms and conditions. I agree and acknowledge that this Protective Order also applies with the same force and effect to all proceedings in Application No. C-4328/PI-176.

DATED this _____ day of _____ 20__.

Name (Print of type)

Title

Representing

Business Name

Business Address

Date

Signature

Application No. C-4328/PI-176

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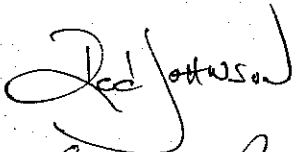
O R D E R

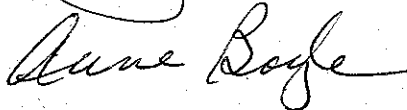
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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:





//s//Frank E. Landis
//s//Tim Schram



Chairman

ATTEST:



Executive Director