

ORDER NO. **96 - 045**

ENTERED **FEB 21 1996**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UT 125

In the Matter of the Application of U S WEST)
Communications, Inc. For an Increase in Revenues) **PROTECTIVE ORDER**

On February 1, 1996, U S WEST Communications, Inc. (USWC) filed a Petition for the Adoption of a Protective Order and Supporting Affidavit. USWC moves for the issue of a standard protective order to restrict disclosure of certain information it claims is confidential. The affidavit that USWC filed with its petition sets forth facts intending to show that good cause exists to issue a protective order.

USWC asserts that it has received and expects to receive data requests for highly sensitive, proprietary, and confidential research, development of commercial information such as marketing and business plans and cost data, and other materials that may include trade secret information, the unprotected disclosure of which would result in a clearly defined and serious injury to USWC. USWC's affidavit asserts: that the unprotected disclosure of confidential information could be used by USWC's competitors to their commercial advantage and to the commercial disadvantage of USWC or its affiliated companies; that the information USWC anticipates being asked for is proprietary and cannot be easily duplicated or acquired by others; and that USWC and its affiliates have taken stringent measures to safeguard the secrecy of this information and unprotected disclosure of the information would result in substantial monetary loss to USWC and to its customers.

USWC has made a prima facie showing of good cause to issue a protective order in this proceeding. This protective order and the information protected by it is subject to all the provisions set forth in Appendix A. Parties agreeing to be bound by the terms of the protective order shall sign the signatory page of Appendix B.

NOTICE

Any party in this proceeding may appeal to the Commission for relief from any term of this Protective Order by filing a complaint with the Commission as provided in OAR 860-13-015. Parties benefiting from this Protective Order may respond as provided by Commission Rules of Practice and Procedure. For good cause shown, the Commission may establish expedited procedures for ruling on any such appeal.

ORDER

IT IS ORDERED that the Standard Protective Order, attached as Appendix A, shall govern disclosure of confidential information in this case.

Made, entered, and effective February 21, 1996, pursuant to OAR 860-12-035(1)(k).



Ruth Crowley
Ruth Crowley
Administrative Law Judge

This order may be appealed to the Commission pursuant to OAR 860-14-091. The appeal should be in the form of a motion. See OAR 860-13-031.

APPENDIX A

STANDARD PROTECTIVE ORDER

Scope of this Order-

1. This order governs the acquisition and use of "confidential information" in this proceeding.

Definitions-

2. "Confidential Information" is information that falls within the scope of ORCP 36(C)(7) ("a trade secret or other confidential research, development, or commercial information").

3. A "qualified person" is an individual who is:

- a. The author(s), addressee(s), or originator(s) of the confidential information;
- b. The Commissioner(s) or the Commission staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record;
- e. An unaffiliated expert retained by a party;
- f. A person approved by the party desiring confidentiality (pursuant to paragraph 9); or
- g. A party designated a qualified person by order of the Commission (pursuant to paragraph 9).

Designation of Confidential Information-

4. A party providing confidential information shall inform other parties that the material has been designated confidential by placing the following legend on the information:

CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party shall designate only the portions of the document that fall within ORCP 36(C)(7).

5. A party may designate as confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated confidential information shall, when feasible, ensure that all copies of the information bear the above legend to the extent requested by the party desiring confidentiality.

Disclosure of Confidential Information-

6. Confidential information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, confidential information shall be delivered to counsel. In the alternative, confidential information may be made available for inspection and review by qualified persons in a place and time agreeable to the parties or as directed by the presiding officer.

7. Before reviewing confidential information, a person qualified under paragraphs 3(e) through 3(g) must:

- a. Read a copy of this Protective Order;
- b. Execute a statement acknowledging that the order has been read and agreeing, in return, for access to the information, to be bound by the terms of the order; and
- c. Date the statement.

Counsel shall, upon request, deliver a copy of the signed statement to the party desiring confidentiality.

8. Prior to disclosing confidential information to an unaffiliated expert qualified under paragraph 3(e), the party seeking to disclose the information must notify the party desiring confidentiality, in writing, at least three business days prior to the intended disclosure. The notice shall state:

- a. The exact nature of the information to be disclosed;
- b. The identity of the unaffiliated expert; and
- c. Any past, present, or anticipated future affiliation between the expert and any party to the proceeding.

9. When a party desires to disclose confidential information to an unqualified person, the party must, in writing, request permission from the party desiring confidentiality. The request must state:

- a. The exact nature of the information to be disclosed;
- b. The identity of the person(s) to whom it would be disclosed;
- c. The nature of any past, present, or anticipated future affiliation between the person(s) and any party to this proceeding; and
- d. The specific reasons why disclosure is necessary.

If the party desiring confidentiality agrees to disclosure, the person to receive the information will become qualified under paragraph 3(f) for the information identified in the request. If a party requests permission to disclose confidential information to an unqualified person, and the party desiring confidentiality fails to grant permission in writing within three business days, the party requesting disclosure may move to qualify the person under paragraph 3(g). The motion must contain the information set forth in the original request. The information shall not be disclosed pending the presiding officer's ruling on the motion.

Preservation of Confidentiality-

10. All persons who are given access to any confidential information by reason of this order shall not use or disclose the confidential information for purposes of business or competition, or for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure.

With the exception of Commission staff, parties may not copy, microfilm, microfiche, or otherwise reproduce confidential information without the written consent of the providing party.

Information Given to the Commission-

11. Confidential Information that is: a) filed with the Commission or its staff, b) made an exhibit, c) incorporated into a transcript, or d) incorporated into a pleading, brief, or other document, shall be separately bound and placed in a sealed envelope or other appropriate container. To the extent practicable, only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope container. The envelope/container shall bear the legend:

THIS ENVELOPE IS SEALED PURSUANT TO ORDER NO. _____
AND CONTAINS CONFIDENTIAL INFORMATION. THE INFORMATION
MAY BE SHOWN ONLY TO QUALIFIED PERSONS AS DEFINED IN THE
ORDER.

12. The Commission's Administrative Hearings Division shall store the confidential information in a locked cabinet dedicated to the storage of confidential information.

Duration of Protection-

13. The confidentiality of confidential information shall be preserved until the Commission, by order, terminates the protection conferred by this order.

Destruction After Proceeding-

14. Counsel of record may retain memoranda or pleadings containing confidential information to the extent reasonably necessary to maintain a file of this proceeding. The information retained may not be disclosed to any person. Any other person retaining confidential information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the confidential information. This paragraph does not apply to the Commission or its staff.

Appeal to the Presiding Officer-

15. If a party disagrees with the designation of information as confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information, and
- b. Assert that the information does not fall within ORCP 36(C)(7).

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within 10 days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Commission or the presiding officer on the motion.

Additional Protection-

16. A party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested; and
- d. The specific reasons the requested relief is necessary.

The information need not be released and, if released, shall not be disclosed pending the Commission's ruling on the motion.

AppA:protecord

SIGNATORY PAGE

UT 125

Consent to be Bound-

This order governs the use of "confidential information" in this proceeding.

I have read this Order, including Appendix A, and agree to be bound by its terms.

Frank G. Patrick

Frank G. Patrick

July 11, 2018

Signature & Printed

Date

NPCC - Northwest Public Communications Council et al
Party

Signature & Printed

Date

Party

Signature & Printed

Date

Party

Signature & Printed

Date

Party