



Public Service Commission
State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

March 4, 2008

Illona Jeffcoat-Sacco
Executive Director
Public Service Commission
600 E Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480

RE: **Otter Tail Corporation
Advanced Determination of Prudence-
Renewable Generation Rider
Case No. PU-06-466**

Dear Ms. Jeffcoa-Sacco:

Enclosed for filing in the above referenced case is the original and seven copies of the **Staff Response to Otter Tail Corporation's Application for Trade Secret Protection.**

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Binek".

William W. Binek
Chief Counsel

Enclosure

C: Bruce Gerhardson

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Corporation
Advanced Determination of Prudence –
Renewable Generation Rider
Application**

Case No. PU-06-466

**STAFF RESPONSE TO OTTER TAIL CORPORATION'S APPLICATION FOR
TRADE SECRET PROTECTION**

On February 1, 2008, Otter Tail Corporation, d/b/a Otter Tail Power Company ("Otter Tail") filed an application for a trade secret protective order under N.D. Admin. Code §69-02-09-01 for the purpose of protecting against public disclosure or trade secret information as defined by N.D.C.C. §47-25.1-01(4). Otter Tail provides the general description of the nature of the information sought to be protected, as follows:

1. General Description of the Nature of the Information Sought to be Protected.

The information Otter Tail seeks to protect is cost information contained in the calculation of Revenue Requirements of Otter Tail's share of the Langdon Wind Energy Center facility, contained in Attachment 3 of Otter Tail's Petition in this matter.

2. Explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.

Otter Tail states that the information could have economic value to potential vendors, contractors, and suppliers who may desire to supply components of similar projects in which Otter Tail may be involved in the future. Vendors, contractors and suppliers could use such information against Otter Tail's interests in the course of submitting proposals.

3. An Explanation of why the information is not readily ascertainable by proper means by other persons.

Otter Tail states that the confidentiality of the information has been maintained by the company. The information is not disclosed to the public or to persons other than employees or authorized agents of Otter Tail who need to know the information to fulfill their responsibilities in connection with the project or to third persons pursuant to agreement to maintain the confidentiality of the information.

4. A general description of the persons or entities that would obtain economic value from disclosure or use of the information.

Otter Tail states that persons or entities that would obtain economic value from disclosure of costs include potential equipment and material vendors, contractors, and other suppliers for similar projects.

5. A specific description of known competitors and competitors' goods and services that is pertinent to the tariff or rate filing.

Otter Tail refers to its response to No. 4.

6. A description of the efforts used to maintain the secrecy of the information.

Otter Tail refers to its response to No. 3.

Staff has reviewed Otter Tail's request for trade secret protection of cost information. N.D.C.C. § 47-25.1-01 defines the term "trade secret" as follows:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

N.D. Admin. Code § 69-02-09-04 requires that the "commission staff examine the information and application and make a prima facie recommendation of whether the

information is relevant and a trade secret under the definition of trade secret in North Dakota Century Code section 47-25.1-01.”

The information is relevant to the application because the information is used to develop the rate per kWh to be applied to North Dakota customers' bills. However, the information for which trade secret protection is requested could be used against Otter Tail by vendors, contractors and suppliers in the course of submitting proposals for similar projects.

Staff believes that Otter Tail's application satisfies the requirements of N.D.C.C. §47-25.1-01 which allows the Commission to grant trade secret protection in this proceeding. The Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

For reasons set forth above, staff recommends that the Commission grant Otter Tail's Application Requesting Trade Secret Protection in this case.

Dated March 4, 2008.



William W. Binek
Chief Counsel

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Advanced Determination of Prudence –
Renewable Generation Rider
Application**

Case No. PU-06-466

AFFIDAVIT OF SERVICE BY ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Lisa Zeimer deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **4th day of March, 2008**, she deposited in the United States Mail, Bismarck, North Dakota, 1 envelope by first class mail, fully prepaid, securely sealed and containing a photocopy of:

1. Staff Response to Otter Tail Corporations' Application for Trade Secret Protection.
2. Letter to Executive Director.
3. Affidavit of Service.

The envelope was addressed as follows:

Bruce Gerhardson
Associate General Counsel
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

Each post office address shown is the respective addressee's last reasonably ascertainable post office address.



Subscribed and sworn to before me
this **4th day of March, 2008**.



Notary Public

SEAL

