

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Corporation, d/b/a Otter Tail
Power Company
Advance Determination of Prudence
Application**

Case No. PU-06-481

ORDER GRANTING TRADE SECRET PROTECTION

February 23, 2007

On December 1, 2006, Otter Tail Corporation (Otter Tail) filed an Application for Trade Secret Protection requesting a protective order limiting the disclosure of trade secret information included in prefiled direct testimony filed by Otter Tail on December 1, 2006. On January 24, 2007, Otter Tail filed a Supplemental Application For Trade Secret Protection in support of its December 1, 2006 application. The supplemental application provides further information in support of the application and withdraws the request for trade secret protection for the preliminary Big Stone II Stability Analysis included as Exhibit TR-4 to the prefiled testimony of Timothy J. Rogelstad. The specific information Otter Tail seeks trade secret protection for is as follows:

- 1. General Description of the Nature of the Information Sought to be Protected.**
 - A. Big Stone II Power Projected Cost Report included as Exhibit KET-2 to the prefiled testimony of Kermit E. Trout.
 - B. Preliminary Big Stone II Stability Analysis included as Exhibit TR-4 to the prefiled testimony of Timothy J. Rogelstad. (Otter Tail requested trade secret protection in its December 1, 2006 application but withdrew its request in its January 24, 2007 supplemental application).
 - C. Big Stone II Transmission Projected Costs included as Exhibit TR-5 to the prefiled testimony of Timothy J. Rogelstad.

Otter Tail states that the Big Stone II Cost Report prepared by Black & Veatch, the owners' engineer and construction manager, was based upon internally generated information from other Black & Veatch projects and trade publications as well as preliminary Big Stone II bid information from vendors of major equipment components. Otter Tail states that the information has economic value to competitors of Black & Veatch in providing services for other clients or potential clients and to potential vendors for the Big Stone II project by having access to preliminary bid amounts included in the project budget for various equipment components.

Otter Tail states that at the time of its application, the preliminary Big Stone II Stability Analysis had not been posted on the MISO Open Access Same-Time Information System (OASIS) and therefore was confidential. Otter Tail has withdrawn its request for trade secret protection because the document has been publicly posted on the MISO OASIS so it is no longer confidential.

Otter Tail states that the Big Stone II projected costs were prepared by Otter Tail on behalf of the Big Stone II project based upon internal information from other Otter Tail projects and from trade publications. Otter Tail states that the information has economic value to potential vendors and contractors who may bid to supply materials and labor for the Big Stone II transmission project or components thereof by having access to the projected cost expectations of the project owners.

N.D.C.C. Section 47-25.1-01(4) defines "trade secret" as:

"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 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.

Otter Tail states that competitors of Black & Veatch engaged in the engineering and construction management of electric generation stations would obtain economic value from disclosure of the project costs, and that potential equipment vendors for the Big Stone II station would also obtain economic value from disclosure of the costs.

Otter Tail states that the confidentiality of the Big Stone II Cost Report has been maintained by Black & Veatch and the project owners. The information is not disclosed to the public or to persons other than employees or authorized agents of Black & Veatch 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.

On February 1, 2007 Commission staff (Staff) filed its response to Otter Tail's request for trade secret protection. Staff states that the information for which Otter Tail is requesting protection is relevant to the application and believes Otter Tail's application satisfies the basic requirements of the law which allows the Commission to grant trade secret protection in this proceeding. Staff recommends that the Commission grant the application. Staff noted that the Commission's process provides a means for

interested parties to review trade secret documents upon signing a nondisclosure agreement.

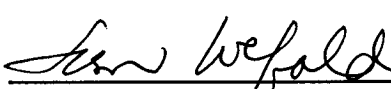
Order

The Commission Orders Otter Tail's application for trade secret protection filed December 1, 2006, is GRANTED.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Susan E. Wefald
President



Kevin Cramer
Commissioner 