

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Meter Malfunctions
Investigation**

Case No. PU-08-627

ORDER GRANTING TRADE SECRET PROTECTION

October 14, 2009

On August 14, 2009, Northern States Power Company (NSP) d/b/a Xcel Energy (Xcel) filed an application for a trade secret protective order under North Dakota Administrative Code (NDAC) Chapter 69-02-09-01 for protection against public disclosure of trade secret information as defined by North Dakota Century Code (NDCC) Section 47-25.1-01(4). The purpose of the requested protective order is to protect against public disclosure of trade secret information contained in a report produced by Global Enterprise Managers, Inc.. Northern States Power Company provided the following general description of the nature of the information sought to be protected:

Sensitive data and information pertaining to the operating and management of Xcel Energy's revenue cycle function and related technology systems.

Northern States Power Company states the information on their various internal systems is commercially valuable, and could have economic benefit to potential vendors, contractors, and suppliers who may desire to provide services, billing systems, or other related technology in the future. In addition, NSP states that public disclosure of information related to their internal systems and how they interconnect may pose a systems security risk.

Xcel Energy states they have maintained the confidentiality of the information for which they are seeking protection. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in connection with billing our customers or vendors whose contracts contain confidentiality provisions. The company has requested this information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities.

Under North Dakota Century Code (NDCC) Section 47-25.1-01(4) :

“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.

Under NDCC Section 44-04-18.4(2)(d), which is almost identical to NDCC Section 47-25.1-01(4):

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, technical know-how, or process that:

1. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information.

North Dakota Administrative Code Section 69-02-04 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 (NDCC) Section 47-25.1-01.” On August 26, 2009, Annette Bendish, Commission’s Staff Counsel (Staff), filed a response to NSP’s request for trade secret protection.

Staff believes that NSP’s application satisfies the requirements of NDCC Section 47-25.1-01, which allows the Commission to grant trade secret protection in this proceeding, and recommends that the Commission grant NSP’s Application Requesting Trade Secret Protection in this case.

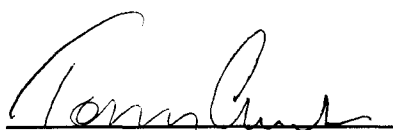
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

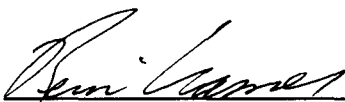
The Commission Orders:

1. Northern States Power Company's application for trade secret protection is GRANTED.
2. This Order does not constitute precedent for subsequent trade secret decisions by the Commission.

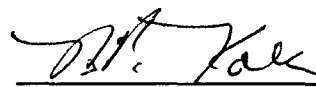
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