

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Meter Malfunctions
Investigation**

Case No. PU-08-627

ORDER GRANTING TRADE SECRET PROTECTION

December 31, 2009

On November 5, 2009, Northern States Power Company (NSP) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protection against public disclosure of trade secret information as defined by North Dakota Century Code section 47-25.1-01(4). NSP seeks protection for information in its action plan developed in response to the recommendations contained in the report that Global Enterprise Managers LLC (GEM) issued on GEM's review of NSP's revenue cycle (GEM Report). Portions of the company's action plan contain information from the GEM Report filed with the Commission on August 18, 2009 and September 25, 2009, which was previously designated as trade secret and granted protection in the Commission's October 14, 2009 Order. In addition, the action plan contains some new information, which is the subject of the company's November 5, 2009 application for trade secret protection. Northern States Power Company filed the following description of the nature of the information sought to be protected with the November 5, 2009 application.

Pages 6, 8, 9, and 10 of the action plan, which contain new information referencing provisions of NSP's contract with Cellnet and obligations stemming from that contract.

Northern States Power Company states that the information in the company's contract with Cellnet is commercially valuable and could have economic benefit to potential vendors, contractors, and suppliers that may desire to provide services, billing systems, or other related technology to NSP in the future.

Northern States Power Company states that pursuant to the terms of the company's contract with Cellnet, Xcel Energy (Xcel) has an obligation to keep the terms of the contract confidential. Accordingly, Xcel states this information is not disclosed to the public and is known only to employees or authorized agents who need the information to fulfill their responsibilities in connection with billing NSP's customers, and to 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 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 North Dakota Century Code section 44-04-18.4(2)(d), which is almost identical to North Dakota Century Code 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 section 47-25.1-01.” On December 3, 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 North Dakota Century Code 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.

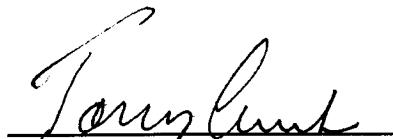
The Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

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.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner