

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Otter Tail Corporation  
Renewable Resource Cost Recovery  
Rider and 2009 Cost Recovery Factor  
Application

Case No. PU-08-742

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Janet Marquart deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 18<sup>th</sup> day of **December, 2008**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Order Granting Trade Secret Protection**

The envelope was addressed as follows:

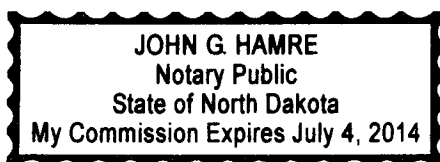
Bruce Gerhardson  
Associate General Counsel  
Otter Tail Corporation  
215 S Cascade Street  
PO Box 496  
Fergus Falls MN 56538-0496

**Cert. No. 7008 1140 0002 6249 8763**

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

Subscribed and sworn to before me  
this 18<sup>th</sup> day of **December, 2008**.

SEAL



*Janet Marquart*

*John G. Hamre*  
Notary Public

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Otter Tail Corporation**  
**Renewable Resource Cost Recovery Rider**  
**2009**  
**Tariff**

**Case No. PU-08-742**

**ORDER GRANTING TRADE SECRET PROTECTION**

**December 17, 2008**

On September 2, 2008, Otter Tail Corporation (Otter Tail) filed an application for a trade secret protective order under North Dakota Administrative Code 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). Otter Tail provided the following general description of the nature of the information sought to be protected:

Cost information contained in the calculation of revenue requirements on Otter Tail's shares of the Langdon Wind Energy Center facility and the Ashtabula Wind Energy Center facility, contained in Attachment 3 of Otter Tail's application for approval of the annual Renewable Resource Cost Recovery Rider and the approval of the 2009 Cost Recovery Factor.

Otter Tail states that the confidentiality of the information sought to be protected has been maintained by Otter Tail. Otter Tail states that 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.

Otter Tail states that in a competitive electric utility and transmission marketplace, public disclosure of this information could have economic value to potential equipment and material vendors, contractors, and suppliers who may desire to supply components of similar projects in which Otter Tail may be involved in the future; they could use such information against Otter Tail's interests in the course of submitting proposals.

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*. (Differences italicized.)

Commission staff (Staff) filed a response to Otter Tail’s request for trade secret protection. Staff believes that Otter Tail’s application satisfies the requirements of NDCC Chapter 47-25.1-01, which allows the Commission to grant trade secret protection in this proceeding, and that the information Otter Tail seeks to protect qualifies as “trade secret” as that term is defined in NDCC Section 47-25.1-04 and NDCC Section 44-04-18.4(2)(d).

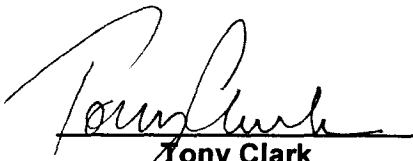
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

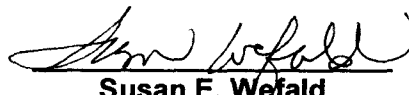
### Order

The Commission Orders:

1. Otter Tail’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

  
Susan E. Wefald  
President

  
Kevin Cramer  
Commissioner