

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advanced Determination of Prudence –
Nobles
Application**

Case No. PU-08-907

**Northern States Power Company
Advanced Determination of Prudence –
Merricourt
Application**

Case No. PU-08-908

ORDER GRANTING TRADE SECRET PROTECTION

February 25, 2009

On December 3, 2008, and January 30, 2009, Northern States Power Company (NSP) filed applications 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). Northern States Power Company provided the following general description of the nature of the information sought to be protected:

Cost information, contract terms, and internal modeling results regarding the Nobles Wind Project and the Merricourt Wind Project; and information relating to costs for purchased energy.

Northern States Power Company states that the information for which trade secret protection is sought is relevant to their applications because the information is used to calculate revenue requirements for NSP. The information could be used against NSP by potential vendors, contractors, and suppliers who may desire to bid projects to the Company in the future.

Northern States Power Company 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 who need to know the information to fulfill their responsibilities in connection with the Nobles and the Merricourt Projects, or to third persons under an agreement to maintain the confidentiality of the information.

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.

On February 11, 2009, Commission staff (Staff) filed a response to NSP’s request for trade secret protection. Staff believes that NSP’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 NSP 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).

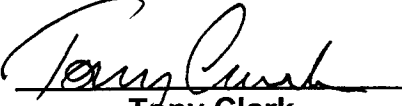
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

The Commission Orders:

1. 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
President



Brian P. Kalk
Commissioner