

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Determination of Prudence – Bay
Front
Application**

Case No. PU-09-216

ORDER GRANTING TRADE SECRET PROTECTION

July 29, 2009

On May 27, 2009, Northern States Power Company (NSP) 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). 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 Bay Front Project as marked in their Application for Advance Determination of Prudence.

Northern States Power Company states the cost information, contract terms, and internal modeling results regarding the Bay Front Project could have economic value to potential vendors, contractors, and suppliers who may desire to bid projects to NSP in the future. Further, NSP states their competitors may use such information against NSP's interests in the future.

Northern States Power Company states they have maintained the confidentiality of the information. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information in order to fulfill their responsibilities in connection with the Bay Front Project, or to third parties pursuant to an agreement to maintain the confidentiality of the information. Northern States Power Company has requested the information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities. Northern States Power Company states that biomass developers, entities from which they purchase power, and other utilities would obtain economic value from disclosure of this 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.

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 July 14, 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.

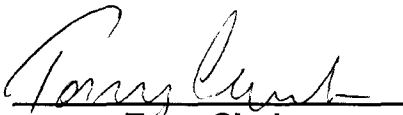
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

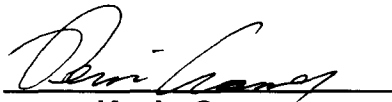
The Commission Orders:

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.

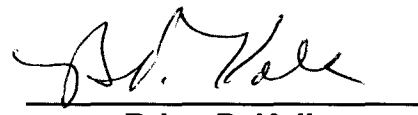
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