

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company
Advance determination of Prudence – Bay Front
Application

Case No. PU-09-659

ORDER GRANTING TRADE SECRET PROTECTION

October 14, 2009

On September 24, 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 in the above-referenced docket.

Northern States Power Company states the information could have economic value to potential vendors, contractors and suppliers who may desire to bid projects to the Company in the future, which could compromise their ability to effectively negotiate, including biomass developers, entities from which they purchase power, and other utilities. Further, NSP competes with other companies (utilities, developers, etc.) for resources and materials used in electric generation. Northern States Power Company states that, if publically known, the information in this filing could be used against their interests in the future.

Northern States Power Company states they have consistently maintained the confidentiality of this information, and the information identified as trade secret has not been disclosed to the public. The only persons allowed access to this information are employees or authorized agents who need to know the information to fulfill their responsibilities in connection with the Bay Front Project, or to third parties pursuant to contractual agreements that require them to maintain the confidentiality of the information. Northern States Power Company has also requested that 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.

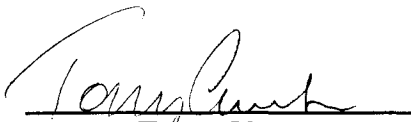
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

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.

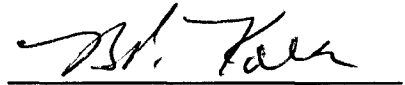
PUBLIC SERVICE COMMISSION



**Tony Clark
Commissioner**



**Kevin Cramer
Chairman**



**Brian P. Kalk
Commissioner**