

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

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

**Case No. PU-09-659**

**AFFIDAVIT OF SERVICE REGULAR OR EMAIL**

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 **22<sup>nd</sup>** day of **October, 2009**, she deposited in the United States Mail, Bismarck, North Dakota, **2** envelopes by first class mail, fully prepaid, securely sealed and each containing a photocopy, and **16** electronic mail messages, each with an attached electronic copy of:

**Order Granting Trade Secret Protection**

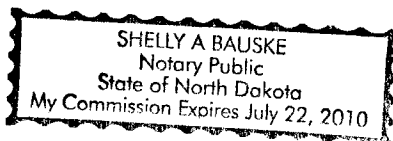
The envelopes and electronic mails respectively were addressed as follows:

See attached list.

Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

Subscribed and sworn to before me  
this **22<sup>nd</sup>** day of **October, 2009**.

SEAL



*Janet Marquart*  
\_\_\_\_\_

*Shelly A Bauske*  
\_\_\_\_\_  
Notary Public

~~JAMES A ALDERS  
NORTHERN STATES POWER  
XCEL ENERGY 414 NICOLLET MALL, 7TH FLR  
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Sent via  
Certified mail

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**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.

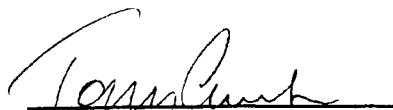
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

## 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