

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

**Otter Tail Power Company**  
**2010 Renewable Resource Cost Recovery Adj. Factor**  
**Tariff**

**Case No. PU-10-18**

**ORDER GRANTING TRADE SECRET PROTECTION**

**February 10, 2010**

On December 31, 2009, and January 18, 2010, Otter Tail Power Company (Otter Tail) filed applications for an order under North Dakota Administrative Code Section 69-02-09-01 for protection against public disclosure of trade secret information as defined by North Dakota Century Code section 47-25.1-01(4). Otter Tail seeks protection for information related to its 2010 Renewable Resource Cost Recovery Adjustment Factor under the Company's Renewable Resource Cost Recovery Rider. Otter Tail filed the following description of the nature of the information sought to be protected with the December 31, 2009 and the January 18, 2010 applications.

Cost information contained in the calculation of Revenue Requirements on Otter Tail's share of the Langdon Wind Energy Center, the Ashtabula wind Energy Center, and the Luverne Wind Energy Center, contained in Attachments 1 through 3, and on page 6 of Otter Tail's Application in this matter.

Otter Tail states the 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. Equipment and material vendors, contractors, and suppliers would obtain economic value from disclosure of the costs because they could use the information against Otter Tail's interests in the course of submitting proposals.

Otter Tail states the confidentiality of the information has been maintained by Otter Tail. 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 responsibilities in connection with the project or to third persons pursuant to agreement to maintain the confidentiality of the information.

Under North Dakota Century Code 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 North Dakota Century Code section 44-04-18.4(2)(d), which is almost identical to North Dakota Century Code 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 section 47-25.1-01.” On February 2, 2010, Annette Bendish, Commission’s Staff Counsel (Staff), filed a response to Otter Tail’s request for trade secret protection.

Staff believes that Otter Tail’s application satisfies the requirements of North Dakota Century Code section 47-25.1-01, which allows the Commission to grant trade secret protection in this proceeding, and recommends that the Commission grant Otter Tail’s Application Requesting Trade Secret Protection in this case.

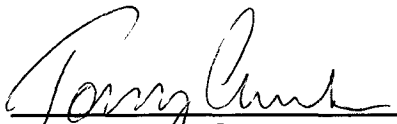
The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

## Order

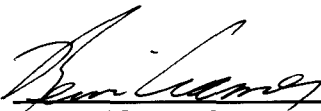
The Commission Orders:

1. Otter Tail 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