

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**In the Matter of Otter Tail Power
Company's Request for Approval of its
2012 Renewable Resource Cost Recovery
Adjustment Factor**

Case No. PU-12-24

**STAFF RESPONSE TO THE REQUEST OF OTTER TAIL POWER COMPANY FOR
TRADE SECRET PROTECTION**

On December 29, 2011 Otter Tail Power Company (Otter Tail) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protecting against public disclosure trade secret information as defined by North Dakota Century Code section 47-25.1-01(4). Applicants provided the following to support its application:

1. General Description of the Nature of the Information Sought to be Protected.

The information for which NSP seeks protection includes 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 Luvurne Wind Energy Center.

2. An Explanation of Why the Information Derives Independent Economic Value, Actual or Potential, From not Being Generally Known to Other Persons.

Otter Tail stated that the information indicated in paragraph one above could have economic value to potential vendors, contractors and suppliers who may desire to supply components of similar projects in which Otter Tail may be involved in the future.

Specifically, Otter Tail indicated that potential suppliers could utilize the information against Otter Tail's interests in the course of submitting proposals.

3. An Explanation of Why the Information is Not Readily Ascertainable by Proper Means by Other Persons.

Otter Tail indicated that the confidentiality of the information indicated above is being maintained internally by them. Otter Tail indicates that this information is not disclosed to the public or to persons other than Otter Tail employees or authorized agents of Otter Tail who need to know the information to fulfill their responsibilities in connection with the project or to third persons pursuant to agreement to the maintain the confidentiality of the information.

4. A General Description of the Persons or Entities that would Obtain Economic Value from Disclosure or Use of the Information.

Potential equipment and material vendors, contractors, and other suppliers for similar projects would obtain economic value from disclosure of the costs.

5. A Specific Description of Known Competitors and Competitor's Goods and Services that are Pertinent to the Tariff or Rate Filing.

Please see paragraph 4 above.

6. A Description of the Efforts Used to Maintain the Secrecy of Information.

Please see paragraph 3 above.

Staff has reviewed Applicants' request for trade secret protection of the information. N.D.C.C. § 47-25.1-01(4) defines the term "trade secret" as follows:

"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.”

N.D. Admin Code North Dakota Administrative Code section 69-02-09-04 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.”

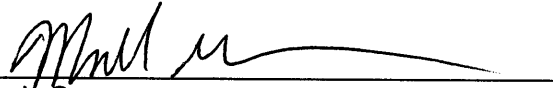
The information is relevant because it is germane to the PPA. Applicants indicate that the information was prepared pursuant to agreements that require its continued confidentiality, or otherwise could materially alter future negotiations with contractors. The information, therefore, is not readily ascertainable by proper means by other persons.

Staff believes that the application satisfies the requirements of the law which allows the Commission to grant trade secret protection in this proceeding. The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

For reasons set forth above, staff recommends that the Commission grant the

Applicants' request for trade secret protection.

Dated this 14th day of March, 2012.



Mark Gruman
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Advocacy Staff
North Dakota Public Service Commission