

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

**Otter Tail Power Company  
2012 Renewable Resource Cost Recovery  
Factor Adjustment  
Tariff**

**Case No. PU-12-24**

**ORDER GRANTING TRADE SECRET PROTECTION**

**March 21, 2012**

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).

On March 14, 2012, Staff filed its Staff Response to the Request of Otter Tail Power Company for Trade Secret Protection.

The information for which Otter Tail 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.

Otter Tail stated that the information 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.

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.

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.”

Further , North Dakota Century Code § 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. N.D.C.C. § 44-04-18.4(1). Commercial and financial information can be protected from disclosure if the information has not been previously disclosed and disclosure would impair the Commission’s ability to obtain similar information in the future or would cause competitive injury to the person providing the information. N.D.C.C. §§ 44-04-18.4(2)(a) and 44-04-18.4(2)(b). Proprietary and trade secret information can be protected when the information derives independent economic value from not being generally known to or readily ascertainable by other persons, and is the subject of reasonable efforts to maintain its secrecy. N.D.C.C. §§ 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

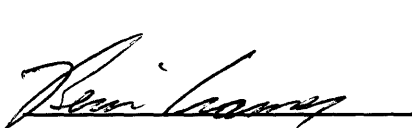
Staff stated in its March 14, 2012 response, that the information sought to be protected by Otter Tail’s application satisfies the requirements of the North Dakota Century Code for protection of the information which was the subject of the application for protection. Staff noted that the Commission’s process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

**Order**

The Commission Orders:

Otter Tail Power Company’s application for trade secret protection is GRANTED.

**PUBLIC SERVICE COMMISSION**



**Kevin Cramer  
Commissioner**



**Tony Clark  
Chairman**



**Brian P. Kalk  
Commissioner**