



Public Service Commission State of North Dakota

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1 November 2013

Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Blvd. Ave. Dept. 408
Bismarck, ND 58505-0480

Re:

Northern States Power Company
Advance Determination of Prudence - Courtenay Wind,
Application
PU-13-706

Northern States Power Company
Advance Determination of Prudence -
Odell Wind, Application
PU-13-707

Northern States Power Company
Advance Determination of Prudence -
Pleasant Valley, Application
PU-13-708

Northern States Power Company
Advance Determination of Prudence -
Border Winds, Application
PU-13-742

Northern States Power Company
150 MW Border Winds Project – Rolette County, ND
Public Convenience & Necessity, Application
PU-13-743

Northern States Power Company
Advance Determination of Prudence -
NG Generator, Application
PU-13-194

Northern States Power Company
Red River Valley NG Units 1 & 2 – Hankinson, ND
Public Convenience & Necessity, Application
PU-13-195

Dear Mr. Nitschke:

Enclosed are Staff Responses to the Applications for Trade Secret Protection in the above-captioned cases along with an Affidavit of Service.

35 **PU-13-195** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

29 **PU-13-194** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

c:w/encl: David Sederquist (dave.sederquist@xcelenergy.com)
Darrell Nitschke (dnitschk@nd.gov)

Best regards,

Ryan Norrell
Legal Counsel

34 **PU-13-743** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

35 **PU-13-742** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

34 **PU-13-707** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

34 **PU-13-708** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

34 **PU-13-706** Filed: 11/1/2013 Pages: 14
Staff response to application for trade secret protection

AFFIDAVIT OF SERVICE BY ELECTRONIC MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Ryan Norrell deposes and says that:

he is over the age of 18 years and not a party to this action and, on the 4th day of **November 2013**, he electronically mailed 2 addressees a copy of:

Staff Response to Application for Trade Secret Protection

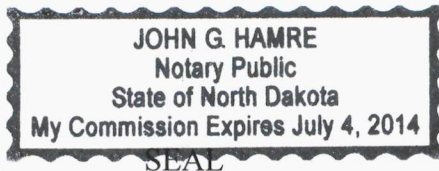
The electronic mails were addressed as follows:


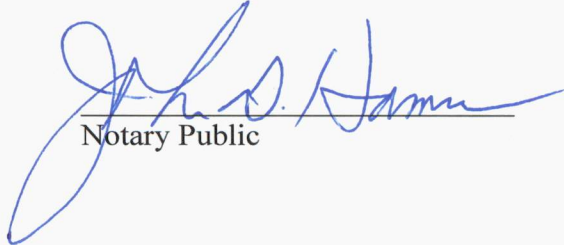
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Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
dnitschk@nd.gov

Each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

Subscribed and sworn to before me
this 4th day of NOV. 2013.





Notary Public

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Determination of Prudence - Courtenay Wind
Application**

Case No. PU-13-706

**Northern States Power Company
Advance Determination of Prudence - Odell Wind
Application**

Case No. PU-13-707

**Northern States Power Company
Advance Determination of Prudence - Pleasant Valley
Application**

Case No. PU-13-708

STAFF RESPONSE TO REQUESTS OF NORTHERN STATES POWER COMPANY FOR TRADE SECRET PROTECTION

On 26 July 2013 Northern States Power Company (Xcel or Company), filed applications 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).

The information for which the Company seeks protection includes cost information, contract terms, confidential bid information and internal modeling results, as well as information from which the foregoing may be derived, regarding the Company's proposal to add 600 MW of additional wind resources to the Company's system, which has been marked as trade secret in Xcel's Applications for Advance Determination of Prudence in the above-referenced cases.

The Company states the cost information is commercial information because it is "information pertaining to buying and selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed., would

cause substantial competitive injury to the person from which the information was obtained," as provided in North Dakota Century Code Section 44-04-18.4(2)(a).

The Company further states that the cost information is trade secret because it is information 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; and (2) is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information," as provided in North Dakota Century Code Section 44-04-18.4(2)(d).

The Company further states that the information sought to be protected meets the definition of "trade secret" set forth in North Dakota Century Code Section 47-25.1-01(4).

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid for PPAs or other generation resources to the Company in the future. Confidential bid information is also particularly proprietary and has independent economic value to those who provided it. Moreover, potential suppliers would know what the Company has paid under this PPA and bids received in the RFP and, consequently, the price could potentially serve as a floor, below which no bidder would submit a price. Such a result could be harmful for the Company's customers in North Dakota.

The confidentiality of this information has been maintained by the Company. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in

connection with the Company's proposal, or to third persons pursuant to nondisclosure agreement to maintain the confidentiality of the information.

The Company has requested that this information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities.

Other entities from which Xcel Energy purchases power and generation facilities (or could purchase power and generation facilities in the future) and other utilities would obtain economic value from disclosure of this information. Confidential bid information is also particularly proprietary and has independent economic value to those who provided it.

North Dakota Administrative Code Section 69-02-09-04 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the requests of Xcel for protection of information.

North Dakota Century Code Section 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. North Dakota Century Code Section 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. North Dakota Century Code Sections 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. North Dakota Century Code Sections 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Staff believes that Xcel's applications satisfy the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

For reasons set forth above, Staff recommends that the Commission grant the applications of Northern States Power Company to protect certain filed information in the captioned cases.

Dated this 1st day of November, 2013.



Ryan Norrell
Legal Counsel
North Dakota Public Service Commission

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Determination of Prudence - Border Winds
Application**

Case No. PU-13-742

**Northern States Power Company
150 MW Border Winds Project – Rolette County, ND
Public Convenience & Necessity Application**

Case No. PU-13-743

STAFF RESPONSE TO REQUESTS OF NORTHERN STATES POWER COMPANY FOR TRADE SECRET PROTECTION

On 13 August 2013 Northern States Power Company (Xcel or Company), filed applications 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).

The information for which the Company seeks protection includes cost information, contract terms, confidential bid information and internal modeling results, as well as information from which the foregoing may be derived, regarding the Company's proposal to purchase the Border Winds Project, which has been marked as trade secret in Xcel's Applications for Advance Determination of Prudence in the above-referenced cases.

The Company states the cost information is commercial information because it is "information pertaining to buying and selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed.., would

cause substantial competitive injury to the person from which the information was obtained," as provided in North Dakota Century Code Section 44-04-18.4(2)(a).

The Company further states that the cost information is trade secret because it is information 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; and (2) is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information," as provided in North Dakota Century Code Section 44-04-18.4(2)(d).

The Company further states that the information sought to be protected meets the definition of "trade secret" set forth in North Dakota Century Code Section 47-25.1-01(4).

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid for other generation resources to the Company in the future. Confidential bid information is also particularly proprietary and has independent economic value to those who provided it. Moreover, potential suppliers would know what the Company has paid under this the applicable agreements and bids received in the RFP and, consequently, the price could potentially serve as a floor, below which no bidder would submit a price. Such a result could be harmful for the Company's customers in North Dakota.

The confidentiality of this information has been maintained by the Company. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in

connection with the Company's proposal, or to third persons pursuant to nondisclosure agreement to maintain the confidentiality of the information.

The Company has requested that this information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities.

Other entities from which Xcel Energy purchases power and generation facilities (or could purchase power and generation facilities in the future) and other utilities would obtain economic value from disclosure of this information. Confidential bid information is also particularly proprietary and has independent economic value to those who provided it.

North Dakota Administrative Code Section 69-02-09-04 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the requests of Xcel for protection of information.

North Dakota Century Code Section 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. North Dakota Century Code Section 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. North Dakota Century Code Sections 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. North Dakota Century Code Sections 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Staff believes that Xcel's applications satisfy the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

For reasons set forth above, Staff recommends that the Commission grant the applications of Northern States Power Company to protect certain filed information in the captioned cases.

Dated this 1st day of November, 2013.



Ryan Norrell
Legal Counsel
North Dakota Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company
Advance Determination of Prudence – NG Generator
Application

Case No. PU-13-194

Northern States Power Company
Red River Valley NG Units 1 & 2 – Hankinson, ND
Public Convenience & Necessity

Case No. PU-13-195

STAFF RESPONSE TO THE REQUEST OF NORTHERN STATES POWER
COMPANY FOR TRADE SECRET PROTECTION

On 26 April 2013, Northern States Power Company (Xcel Energy or Company), 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).

The information for which the Company seeks protection includes Cost information regarding the Company's proposal to add three combustion turbine (CT) generators to the Company's system which is marked as trade secret in Xcel's Application for Advance Determination of Prudence in the above-referenced case.

The Company states the cost information is commercial information because it is "information pertaining to buying and selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed.., would cause substantial competitive injury to the person from which the information was obtained," as provided in North Dakota Century Code Section 44-04-18.4(2)(a).

The Company further states that the cost information is trade secret because it is information 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; and (2) is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information," as provided in North Dakota Century Code Section 44-04-18.4(2)(d).

The Company further states that the information sought to be protected meets the definition of "trade secret" as set forth in North Dakota Century Code Section 47-25.1-01(4).

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid to provide material or services for the Company's proposal to add three CT generators to the Company's system. In particular, potential suppliers would know what the Company has determined to be the cost range for certain components of its proposal, and consequently the cost range could potentially serve as a floor below which no bidder would submit a bid price. Such a result could be harmful for the Company's customers.

The confidentiality of this information has been maintained by the Company and Xcel Energy Services Inc., the service company for the Company. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in connection with the Company proposal, or to third persons pursuant to nondisclosure agreement to maintain the confidentiality of the information.

The Company has requested that this information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities.

North Dakota Administrative Code Section 69-02-09-04 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the request of Xcel for protection of information.

North Dakota Century Code Section 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. North Dakota Century Code Section 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. North Dakota Century Code Sections 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. North Dakota Century Code Sections 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Staff believes that Xcel's application satisfies the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

For reasons set forth above, Staff recommends that the Commission grant the application of Northern States Power Company to protect certain filed information in this case.

Dated this 1st day of November, 2013.



Ryan Norrell
Legal Counsel
North Dakota Public Service Commission