



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

23 February 2015

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 Prudence – 187 NW Solar Energy Portfolio
Application
PU-14-810

Dear Mr. Nitschke:

Enclosed is a Staff Response to Request of Northern States Power Company for Trade Secret Protection in the captioned case along with a Certificate of Service.

Best regards,

A handwritten signature in blue ink, appearing to read "John Schuh".

John Schuh
Legal Counsel

c:w/encl by electronic mail: David Sederquist (dave.sederquist@xcelenergy.com)

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Prudence – 187 MW Solar Energy Portfolio
Application**

Case No. PU-14-810

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

On November 7, 2014, Northern States Power Company (Xcel or the Company), filed an application for trade secret protection pursuant to North Dakota Administrative Code Section 69-02-09-1 for protection from public disclosure as a "Trade secret" 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 187 MW of solar resources to Company's system, which has been marked as trade secret in the Company's application for Advance Determination of Prudence in the above-referenced case.

The Company states the cost information is trade commercial information because it is "information pertaining to buying or 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 by North Dakota Century Code Section 44-04-18.4(2)(d). The Company also 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 power purchase agreements (PPA)s 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 the Company 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 69-02-09-03 requires that the Commission staff examine the information and application and make a recommendation to the Commission. Staff has reviewed the request of the Company.

North Dakota Century Code Section 44-04-18.4(1) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publicly disclosed. 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)-(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)-(d).

Staff believes that the Company'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 applications of Northern States Power Company to protect certain filed information in the captioned cases.

Dated this 23rd day of February, 2015.



John M. Schuh
Legal Counsel
North Dakota Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Prudence – 187 NW Solar Energy Portfolio
Application**

Case No. PU-14-810

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **STAFF RESPONSE TO REQUEST OF NORTHERN STATES POWER COMPANY FOR TRADE SECRET PROTECTION** was, on the 23rd day of February 2015, served on the following by electronic mail:

The electronic mails were addressed as follows:

David Sederquist
dave.sederquist@xcelenergy.com

Darrell Nitschke
dnitschk@nd.gov

Dated this 23rd day of February 2015.



John Schuh
Legal Counsel
North Dakota Public Service Commission