

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Advance Prudence – Astoria Gas
Application

Case No. PU-17-140
OAH File No. 20170220

ORDER GRANTING TRADE SECRET PROTECTION

1. On April 10, 2017, Otter Tail Power Company (Otter Tail or the Company), filed an application for trade secret protection pursuant to North Dakota Administrative Code Section 69-02-09-01 and 69-02-09-04, requesting a protective order limiting disclosure of “Trade Secret” information as defined by North Dakota Century Code Section 47-25.1-01(4) and 44-04-18.4.

2. The information for which Otter Tail seeks trade secret protection are breakdowns of projected costs of the Astoria project and supporting testimony regarding its Application for an Advanced Determination of Prudence and Certificate of Public Convenience. These documents, testimony, and exhibits contain confidential business information.

3. The above referenced information is confidential business information and prepared specifically for Otter Tail. The Company states that the information is not publicly available and the confidentiality of this information has been maintained. If publicly available, vendors could use the information to their advantage in competing for project procurement opportunities, while competitors could use the information to leverage their rate positions in the marketplace to Otter Tail's detriment. Disclosure to vendors and competitors if allowed, could be harmful to the Company's customers in North Dakota.

4. The Company states that in accordance with N.D. Admin. Code § 69-02-09-02, one copy of the trade secret material has been provided in a sealed envelope labeled TRADE SECRET – PRIVATE.

5. 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).

6. Commission staff has responded that the Company's application in Case No. PU-17-140 satisfies the requirements of the North Dakota Century Code for protection of the information which is the subject of this request and staff does not oppose this request.

7. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.

8. This hearing officer has fully reviewed and considered the application of Otter Tail and the recommendations of Commission staff, and determines that the

information is both relevant for the hearing of this case and that the information is entitled to the protection sought in the application.

IT IS, THEREFORE,

ORDERED that Otter Tail is hereby granted the confidential trade secret protection that it seeks in Case No. PU-17-140.

Dated: June 2, 2017

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

By:



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Administrative Law Judge
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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the ORDER GRANTING
TRADE SECRET PROTECTION was emailed to the following:

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