

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Cogeneration - Small Power Production
Rates**

Case No. PU-18-18

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On 4 January 2018, Northern States Power Company (NSP) filed an Application for Protection of Information to protect certain information in the captioned case.

The information for which NSP seeks protection includes information regarding the calculation of net annual avoided capacity costs, which has been marked as trade secret in NSP's filing of supporting work papers.

NSP's application states the avoided capacity 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).

NSP further states that the avoided capacity 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).

NSP's application 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).

NSP states that the information could have economic value to potential vendors, contractors, and suppliers who may desire to bid for the construction of a new combustion turbine plant. 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 NSP. 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 subject matter of the information or to third persons pursuant to nondisclosure agreement to maintain the confidentiality of the information.

NSP 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 NSP 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.

Staff believes that NSP'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 NSP to protect certain information filed in this case.

Dated this 1st day of April, 2018.




John Schuh
Legal Counsel
North Dakota Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION** was, on 2 April 2019, served on the following by e-mail:

Dave Sederquist (dave.sederquist@xcelenergy.com)

Dated this 2nd day of April 2019.



John Schuh
Legal Counsel