

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

PUBLIC SERVICE COMMISSION
RATE IMPACT AND ACCOUNTING TREATMENT
INVESTIGATION

CASE NO. PU-17-490

APPLICATION FOR TRADE SECRET PROTECTION

Northern States Power Company (Xcel Energy or the Company) respectfully requests the North Dakota Public Service Commission (Commission) enter a trade secret protective order in the above-referenced Case pursuant to Chapter 69-02-09 of the North Dakota Administrative Code. The purpose of the requested protective order is to protect trade secret and commercial information as defined by N.D.C.C. § 44-04-18.4 from public disclosure pursuant to N.D.C.C. § 44-04-18 *et seq.* or any other applicable public disclosure laws.

In accordance with Section 69-02-09-02 of the North Dakota Administrative Code, one copy of the trade secret material is provided in the enclosed sealed envelope which is labeled: **PROTECTED INFORMATION – PRIVATE.**

1. **A general description of the nature of the information sought to be protected.**

The information for which the Company seeks protection includes financial information based on preliminary, pro-forma estimates of the impact of the 2017 Federal Tax Act on its North Dakota jurisdictional revenue requirements and rates. These estimates are subject to further refinement and/or change. The 2017 data is based on ten months of actuals and two months of forecast for both capital and operating revenue and expenses. Actual results will differ when reported on May 1, 2018. The 2018 data is entirely based on forecasts. The pro-forma calculations are all-inclusive revenue requirements calculations that include—but do not separate out—riders.

Such information has been or will be marked as **TRADE SECRET** in our responses to data requests and in the pre-filed testimony submitted by the Company, or may arise or be discussed in the hearing or hearings in this matter.

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The Company states that this information is trade secret because it is information that “(1) [d]erives 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 or use; and (2) [i]s the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information,” as provided in N.D.C.C. § 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 N.D.C.C. § 47-25.1-01(4).

2. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.

The information could have economic value to potential investors in the Company and other investors in utility companies; other entities who may compete with the Company for available resources such as financing; and to similarly situated utilities who are also impacted by the changes in law that is the subject of these cases. Furthermore, cost and resource information may have independent value in the marketplace, and if left unprotected, could be harmful for the Company's customers in North Dakota.

Importantly, this information is not yet final and has not yet been made publicly available through appropriate filings with the Commission and federal securities regulators. Providing this information publicly to the Commission may trigger reporting requirements for which the data being provided cannot meet.

3. An explanation of why the information is not readily ascertainable by proper means by other persons.

The confidentiality of this information has been maintained by Xcel Energy. 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.

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

4. **A general description of the persons or entities that would obtain economic value from disclosure or use of the information.**

The persons or entities that would obtain economic value from disclosure or use of the information include investors and potential investors in the Company; entities with which Xcel Energy currently conducts or may conduct business; and other utilities. Disclosure of the information sought to be protected would provide these persons and entities prior foreknowledge of information not readily available to the public.

5. **A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing.**

See response to No. 4 above.

6. **A description of the efforts used to maintain the secrecy of the information.**

See response to No. 3 above.

Respectfully submitted this 15th day of February, 2018

BRIGGS AND MORGAN, P.A.

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