

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

**Otter Tail Power Company**  
**Certificate of Public Convenience and Necessity**  
**Application**

**Case No. PU-19-**

**APPLICATION FOR TRADE SECRET PROTECTION**

Pursuant to N.D. Admin. Code §§ 69-02-09-01 and 69-02-09-04, Otter Tail Power Company (Otter Tail) respectfully requests that the Commission issue a trade secret protective order in the above-referenced case. The purpose of the requested protective order is to protect against public disclosure of trade secret or proprietary information, as defined by N.D. Cent. Code §§ 47-25.1-01(4) and 44-04-18.4.

Otter Tail seeks trade secret protection for the electric one-line diagrams contained within the Purchase Agreement for the assets (Application, Attachment 1 at Attachment A-1 therein, as designated on pages 25 through 28 of 37), as they are of a level of detail on the bulk electric system as to constitute or to err on the side of caution is justifiably to be treated as Critical Energy/Electric Infrastructure Information (CEII) under federal law and as treated as such by the Federal Energy Regulatory Commission (FERC). *See*, 18 CFR § 388.113.<sup>1</sup> This information has been marked as TRADE SECRET in the Application, Attachment 1.

CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that relates to: (1) details about the production, generation, transmission, or distribution of energy; (2) that could be useful to a

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<sup>1</sup> *See also*, FERC Order No. 833, *Regulations Implementing FAST Act Section 61003 – Critical Electric Infrastructure Security and Amending Critical Energy Infrastructure Information; Availability of Certain North American Electric Reliability Corporation Databases to the Commission*, 157 FERC ¶ 61,123 (Final Rule, 2016); *Critical Energy Infrastructure Information*, Order No. 630, FERC Stats. & Regs. ¶ 31,140, *order on reh'g*, Order No. 630-A, FERC Stats. & Regs. ¶ 31,147 (2003).

person planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act; and (4) gives strategic information beyond the location of the critical infrastructure. Critical energy/electric infrastructure means a system or asset of the bulk-power system, (physical or virtual) the incapacity or destruction of which would negatively affect national or economic security, public health or safety, or any combination of such matters. 18 CFR § 388.113.

The above-referenced information is not publicly available, as it contains potential CEII and was prepared specifically for Otter Tail with inputs and system operation diagrams unique to Otter Tail. The confidentiality of this information as FERC-designated CEII has been maintained by Otter Tail. The information, therefore, is not readily ascertainable by proper means by other persons.

In accordance with N.D. Admin. Code § 69-02-09-02, one copy of the trade secret material is provided in the enclosed sealed envelope labeled PROTECTED INFORMATION – PRIVATE.

In addition, the Company requests that the trade secret protective order be broad enough to cover all additional information exchanged in the course of this proceeding and qualifying for trade secret protection.

Respectfully submitted this 20<sup>th</sup> day of August, 2019.

OTTER TAIL POWER COMPANY

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