

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

NORTHERN STATES POWER COMPANY
ADVANCE DETERMINATION OF PRUDENCE
98.9 MOWER COUNTY WIND FACILITY

CASE NO. PU-19-_____

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 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 cost/benefit and modeling information as well as contract terms associated with the Company's proposed Purchase and Sale Agreement (PSA) and First Amendment to Renewable Energy Power Agreement (REPA Amendment) for the 98.9 MW Mower County Wind Facility which have been marked as trade secret in our Application and accompanying testimony for Advance Determination of Prudence in the above-referenced Case.

The Company states that this 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 N.D.C.C. § 44-04-18.4(2)(a).

The Company further states that the cost information meets the definition of trade secret under N.D.C.C. § 44-04-18.4(2)(d) and § 47-25.1-01(4) 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.”

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 vendors, contractors, and suppliers who may desire to bid for power purchase agreements or other generation resources to the Company in the future. Moreover, potential suppliers would know what the Company has paid under the PSA and REPA, and, consequently, the pricing could potentially serve as a floor below which no bidder would submit a price. Further, non-economic contract terms will provide potential vendors the opportunity to identify non-cost items of importance to the Company. Such a result could be harmful for the Company’s customers.

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 Company’s proposal, or to third persons pursuant to nondisclosure agreements 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 instances of sharing of this information with governmental entities.

4. A general description of known competitors and competitors’ goods and services that are pertinent to the tariff or rate filing.

Other entities from which the Company purchases power (or could purchase power and generation facilities in the future) and other utilities would obtain economic value from disclosure of this information.

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 30th day of August, 2019.

DORSEY & WHITNEY LLP

By: /s/ Zeviel Simpser

Zeviel Simpser (ND ID # 06794)
50 South Sixth Street, Suite 1500
Minneapolis, Minnesota 55402-1498
Telephone: (612) 492-6129
Fax: (952) 516-5558