

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

Keith and Deanna Kessler  
v Minnesota Power, a division of ALLETE, Inc.  
Complaint

Case No. PU-20-194  
OAH File No. 20200211

**ORDER GRANTING TRADE SECRET PROTECTION**

1. Minnesota Power, a division of ALLETE, Inc., (“MP” or the “Company”), applied for trade secret protection on March 11, 2021, pursuant to N.D. Admin. Code § 69-02-09-01, and requested a protective order in accordance with the provisions of the N.D. Admin. Code.

2. The trade secret information has been identified as easement agreements with Keith and Deanna Kessler.

3. Commission staff, as required by N.D. Admin. Code § 69-02-09-03, has made a prima facie recommendation that the information is relevant for the hearing of this case and is a trade secret as defined by N.D.C.C. § 47-25.1-01(4).

4. The information for which trade secret protection is sought is “cost information pertaining to buying and selling of goods and services which has been kept confidential and has not been previously publicly disclosed” as provided in N.D.C.C. § 44-04-18.4(2)(a), and could be of unfair advantage to competitors if not protected or could have economic value to potential suppliers, vendors, or other competitors. In addition, 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 information is not readily ascertainable by other proper means to such competitors, vendors, suppliers, or other persons.

5. The information has not been disclosed by MP to the public. If competitors, vendors or other suppliers had access to such confidential information, it could adversely affect prices for future material or services and drive up costs to the ultimate disadvantage of consumers and rate payers. N.D.C.C. § 44-04-18.4. In particular, the information could affect future land rights negotiations.

6. The information is proprietary information under N.D.C.C. § 44-04-18.4 (2)(c)(5) because it is technical, financial, or marketing records that are received by the Commission, which are owned or controlled by MP, are intended to be treated by MP as private, and disclosure would cause harm to MP’s business.

6. This Hearing Officer has fully reviewed and considered the application of MP and the recommendations of Commission staff, and determines that the information is relevant for the hearing of this case, that the information is not a public record under N.D.C.C. § 44-04-18 because the information is a trade secret as defined by N.D.C.C. § 47-25.1-01(4), and that the information is entitled to protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1 and N.D. Admin. Code ch. 69-02-09, all as set forth above;

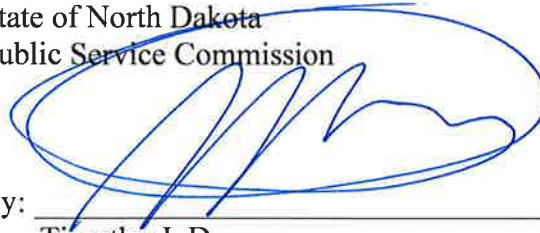
**IT IS, THEREFORE, ORDERED** that MP is hereby granted trade secret protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1 and N.D. Admin. Code ch. 69-02-09 for the information identified in this Order; and it is further

**ORDERED** that the requirement under N.D.A.C. §69-02-09-01(5) to file a redacted public version is waived as the entire contents would be redacted, and it is further

**ORDERED** that this order shall not constitute precedent for a determination of entitlement to trade secret protection for any information submitted upon any subsequent application.

Dated in Bismarck, North Dakota, this 19<sup>th</sup> day of March 2021.

State of North Dakota  
Public Service Commission



By: \_\_\_\_\_

Timothy J. Dawson  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, North Dakota 58503  
[tjdawson@nd.gov](mailto:tjdawson@nd.gov)

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

Keith and Deanna Kessler  
v Minnesota Power, a division of ALLETE, Inc.  
Complaint

Case No. PU-20-194  
OAH File No. 20200211

**CERTIFICATION OF SERVICE**

The undersigned certifies that the original of the **ORDER GRANTING TRADE SECRET PROTECTION** was mailed, inside mail, at the State Capitol, on the 19 day of March 2021, to:

John Hamre  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

and that true and correct copies of the above document was sent by electronic mail and mailed, regular mail, on the 19 day of March 2021, to:

Lynn Boughey  
Boughey Law Firm  
PO Box 1202  
Mandan, ND 58554-1202  
[lynnboughey@midconetwork.com](mailto:lynnboughey@midconetwork.com)  
[bougheyfirm@midconetwork.com](mailto:bougheyfirm@midconetwork.com)

Mollie Smith  
Fredrikson & Byron, PA  
200 South 6th Street - Suite 4000  
Minneapolis, MN 55402-1425  
[msmith@fredlaw.com](mailto:msmith@fredlaw.com)

and that a true correct copy of the above document was sent by electronic mail and mailed, inside mail, at the State Capitol on the 19 day of March 2021, to:

John Schuh  
Public Service Commission  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480  
[jschuh@nd.gov](mailto:jschuh@nd.gov)

Brian Johnson  
Public Service Commission  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480  
[brljohanson@nd.gov](mailto:brljohanson@nd.gov)

OFFICE OF ADMINISTRATIVE HEARINGS  
Timothy J. Dawson, Administrative Law Judge

  
Louise Wetzel