

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company
Advance Prudence – 200 MW Heartland Divide Wind II
Application

Case No. PU-20-433

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On October 30, 2020, Northern States Power (NSP), filed an application for a protective order under North Dakota Administrative Code Section 69-02-09 for protecting against public disclosure protected information as defined by North Dakota Century Code Section 47-25.1-01(4).

The information for which the Company seeks protection includes cost information, as well as contract terms, associated with the Company's proposed power purchase agreement (PPA) for the 200 MW Heartland Divide Wind II facility.

NSP's application states that this information is confidential information because "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 for in North Dakota Century Code Section 44-04-18.4(2)(a).

NSP further states that the cost 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). As a result, NSP states that the

information sought to be protected meets the definition of "trade secret" as set forth in North Dakota Century Code Section 47-25.1-01(4).

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid for power purchase agreements (PPAs), repowering contracts (including vendors currently negotiating repowering PPAs with the Company), or other generation resources to the Company in the future. Knowledge of the Company's costs (and anticipated future costs) could allow bidders to potentially determine a floor below which no bidder would submit a price. Such a result could be harmful for the Company's customers. Additionally, information related to expected savings of any particular project could influence third-party bid pricing and contract negotiations, now and in the future.

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. North Dakota Administrative Code Section 69-02-09-03 requires that the Commission staff examine the information and application and make a recommendation to the Commission.

Staff believes that the application satisfies the requirements of the North Dakota Century Code for protection of information.

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 23rd day of November, 2020.

A handwritten signature in black ink, appearing to read 'Brian Johnson', written over a horizontal line.

Brian Johnson
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