

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company
Advance Prudence – 120 MW Northern Wind Facility
Application

Case No. PU-21-93
OAH File No. 20210118

ORDER GRANTING TRADE SECRET PROTECTION

1. Northern States Power, (“NSP” or the “Company”), applied for trade secret protection on March 2, 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 cost information, as well as contract terms, associated with the Company’s proposed purchase and sale agreement.

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 commercial information “pertaining to buying and selling of goods and services which has not been previously publicly disclosed” as provided in N.D.C.C. § 44-04-18.4(2)(a), and if disclosed would cause substantial competitive injury to the person from which the information was obtained. In addition, the information is trade secret because it “(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. The confidentiality of this information has been maintained by NSP.

5. 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. In particular, the information could affect future bidding for purchase and sale agreements in the future.

6. This Hearing Officer has fully reviewed and considered the application of NSP 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 N.D.C.C. § 44-04-18.4(2)(d), 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, N.D.C.C. § 44-04-18.4, and N.D. Admin. Code ch. 69-02-09, all as set forth above;

IT IS, THEREFORE, ORDERED that NSP is hereby granted trade secret protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1, N.D.C.C. § 44-04-18.4, and N.D. Admin. Code ch. 69-02-09 for the information identified in this Order; 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 27th day of September 2021.

State of North Dakota
Public Service Commission

By: 

Timothy J. Dawson
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, North Dakota 58503

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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 27 day of September 2021, to:

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

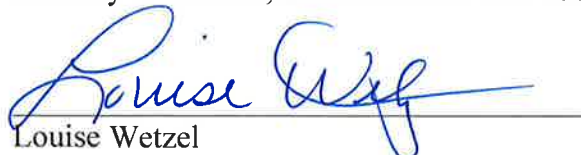
and that true and correct copies of the above document were sent by electronic mail on the 27 day of September 2021, to

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Timothy J. Dawson, Administrative Law Judge


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