

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Advance Prudence – 460MW Solar – Sherburne Cnty. MN
Application**

Case No. PU-21-152

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On April 26, 2021, Northern States Power Company (NSP) filed an Application for Protection of Information to protect certain information in the captioned case.

The information for which the Company seeks protection includes cost, capacity, forecasting, and project schedule information, including levelized cost of energy (LOCE) information for the 460 MW Sherco Solar Project as well as other resources that were analyzed as potential proxy resources.

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 cost, capacity, forecasting, and project schedule 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). The Company further states that the information sought to be protected meets the definition of “trade secret” set forth in N.D.C.C. § 47-25.1-01(4). Such

information has been marked as TRADE SECRET in NSP's responses to data requests and in the pre-filed testimony submitted by NSP or may arise or be discussed in the hearing or hearings in this matter.

The application further states that the information could have economic value to potential vendors, contractors, and suppliers who may use it to gain a competitive advantage on the Company in the future. Potential vendors and suppliers would know what the Company has paid for Sherco Solar and other resources and, consequently, these prices could potentially serve as a floor below which no bidder would submit a price. Additionally, if pricing and forecasting information were publicly disclosed, potential competitors would have the ability to undercut the Company for generation resources or large loads. Such a result could be harmful for the Company's customers, now and in the future.

The confidentiality of this information has been maintained by NSP. 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 subject matter of the information.

NSP has requested that this, and similar types of this information, be treated as trade secret in all of NSP's regulatory filings and other sharing of this information with governmental entities.

The persons or entities that would obtain economic value from disclosure or use of the information include entities with which NSP currently conducts or may conduct business, and other utilities. Disclosure of the information sought to be protected would

provide these persons and entities prior foreknowledge of information not readily available to the public.

Staff believes that NSP's application satisfies the requirements of the North Dakota Century Code for protection of the information, which is the subject of this request.

For reasons set forth above, Staff recommends that the Commission grant the application of NSP to protect certain information filed in the captioned case.

Dated this 27th day of July 2021.



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