

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company
Advance Prudence – 460 MW Solar – Sherburne Co., MN
Application

Case No. PU-21-152
OAH File No. 20210274

ORDER GRANTING TRADE SECRET PROTECTION

1. Northern States Power, (“NSP” or the “Company”), applied for trade secret protection on April 26, 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 identified includes cost, capacity, forecasting, and project schedule information, include levelized cost of energy information for the 460 MW Sherco Solar Project as well as other resources that were analyzed as potential proxy resources.

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 may be used 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 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.

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 21st day of October 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
Telephone (701) 328-3200
tjdawson@nd.gov

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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 20 day of October 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 20 day of October 2021, to

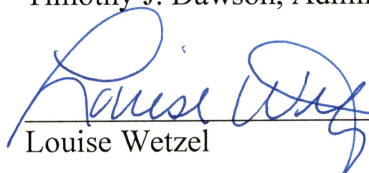
Zeviel Simpser
Dorsey & Whitney, LLP
50 South 6th Street - Suite 1500
Minneapolis, MN 55402-1498

Mitchell Armstrong
Special Assistant Attorney General
Smith Porsborg Schweigert Armstrong
Moldenhauer & Smith
PO Box 460
Bismarck, ND 58502-0460

and that true and correct copies of the above document were mailed, inside mail, at the State Capitol on the 20 day of October 2021, to:

Brian Johnson
General Counsel
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

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



Louise Wetzel