

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Purchased Assets of Ashtabula Wind III, LLC
Public Convenience & Necessity**

Case No. PU-22-027

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On January 11, 2022, Otter Tail Power Company (Otter Tail or Company) filed an Application for Protection of Information to protect certain information in the captioned case. The purpose of the requested protective order is to protect against public disclosure of trade secret or proprietary information, as defined by North Dakota Century Code §§ 47-25.1-01(4) and 44-04-18.4.

Otter Tail seeks trade secret protection for Attachments to Otter Tail's Application for Certificate of Public Convenience and Necessity for Otter Tail's Acquisition of Certain Wind Generation Assets from Ashtabula III, LLC.

Otter Tail seeks trade secret protection for the following all or parts of the following Attachments to Otter Tail's Application for Certificate of Public Convenience and Necessity for Otter Tail's Acquisition of Certain Wind Generation Assets from Ashtabula III, LLC: • Attachment 1 "Purchase and Sale Agreement" between Otter Tail and Ashtabula III, LLC which describes the assets to be purchased and the terms and conditions of the sale. • Attachment 2 "Purchase Option" (originally Exhibit K to the Wind Energy Purchase Agreement between Otter Tail and Ashtabula Wind III, LLC), which sets forth the terms and conditions of Otter Tail's option to purchase the generation assets of the Ashtabula III wind generation facility. • Attachment 3 "Ash III Revenue Requirements and Levelized Cost Analysis" provides Otter Tail's financial analysis in support of exercising its option to purchase. Attachments 1 and 2 contain confidential commercial

and financial information negotiated between the parties to those agreements. This information has not been previously publicly disclosed. This information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons, who can obtain economic value from its disclosure or use. This information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The public disclosure 2 of this information may provide vendors, suppliers, and competitors economic advantages to the detriment of Otter Tail's customers. The disclosure of such information would also likely make it more difficult to negotiate reasonable terms in future agreements of a like nature, all to the detriment of Otter Tail's customers. Attachment 3 contains confidential, proprietary financial information and analysis developed by Otter Tail. This information has not been previously publicly disclosed. This information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons, who can obtain economic value from its disclosure or use. This information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Otter Tail also seeks trade secret for the cost data marked as Protected Data in its Application for Certificate of Public Convenience and Necessity for the same reasons it seeks trade secret protection for Attachment 3.

The confidentiality of this information has been maintained by Otter Tail. 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.

Staff believes that Otter Tail'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 Otter Tail to protect certain information filed in the captioned case.

Dated this 8th day of March, 2022.



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