

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
Renewable Resource Cost Recovery (2023)
Rates**

Case No. PU-22-368

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

On September 19, 2022, 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 capital cost estimates that previously were granted trade secret protection by an August 2, 2017, Order Granting Trade Secret Protection in Case No. PU-17-120, a June 13, 2018, Order Granting Trade Secret Protection in Case No. PU-17-372, and a January 29, 2021, Order Granting Trade Secret Protection in Case No. PU-20-425.

The Company states that this information is commercial information, under N.D.C.C. § 44-04-18.4(2)(a), 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 the cost information is trade secret, under N.D.C.C. § 44-04-18.4(2)(d) and § 47-25.1-01(4), 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

2 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.”

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid for power purchase agreements (PPAs), Build-Own Transfer Agreements (BOTs), or other generation resources to the Company in the future. Moreover, potential suppliers would know what the Company has paid for certain resources under its agreements, and, consequently, the pricing could potentially serve as a floor below which no bidder would submit a price. Further, noneconomic contract terms will provide potential vendors the opportunity to identify non-cost items of importance to the Company. Such a result could be harmful for the Company’s customers in North Dakota.

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 investors and potential investors in NSP; 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 3rd day of January 2023.



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