

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF
NORTHERN STATES POWER COMPANY FOR AN
ADVANCE DETERMINATION OF PRUDENCE FOR
THE SHERCO SOLAR 3 PROJECT

CASE NO. PU-23-_____

APPLICATION FOR TRADE SECRET PROTECTION

Northern States Power Company (Xcel Energy or the Company) respectfully requests the North Dakota Public Service Commission (Commission) enter a trade secret protective order in the above-referenced Case pursuant to Chapter 69-02-09 of the North Dakota Administrative Code. The purpose of the requested protective order is to protect trade secret and commercial information as defined by N.D.C.C. § 44-04-18.4 from public disclosure pursuant to N.D.C.C. § 44-04-18 *et seq.* or any other applicable disclosure laws.

In accordance with Section 69-02-09-02 of the North Dakota Administrative Code, one copy of the trade secret material is provided in the enclosed sealed envelope which is labeled: **PROTECTED INFORMATION – PRIVATE**.

1. A general description of the nature of the information sought to be protected.

The information for which the Company seeks protection includes cost, capacity, forecasting, and project schedule information, including levelized cost of energy (LCOE) information, for the 250 MW Sherco Solar 3 Project as well as other resources that were analyzed as part of the Company's August 1, 2022 request for proposals (RFP) for 900 MW of solar and solar-plus-storage resources. The information sought to be protected has been marked as trade secret in our Application for Advance Determination of Prudence and supporting testimony in the above-referenced Case.

2. The specific law or rule on which the protection is based

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 the 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).

3. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.

The information described above, if disclosed, could have economic value to potential competitors, vendors, contractors, and suppliers who could use it to gain a competitive advantage on the Company in the future. For example, potential vendors and suppliers would know what the Company has paid for Sherco Solar 3 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.

4. An explanation of why the information is not readily ascertainable by proper means by other persons.

The confidentiality of the information described above has been maintained by Xcel Energy. 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 Company’s proposal, or to third persons pursuant to nondisclosure agreements to maintain the confidentiality of the information.

The Company has requested that this information be treated as trade secret in all of its regulatory filings and other instances of sharing this information with governmental entities.

5. A general description of known competitors and competitors’ goods and services that are pertinent to the tariff or rate filing.

Other entities from which the Company purchases power (or could purchase power and generation facilities in the future) and other utilities would obtain economic value

from disclosure of this information.

- 6. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing.**

See response to No. 5 above.

- 7. A description of the efforts used to maintain the secrecy of the information.**

See response to No. 4 above.

Respectfully submitted this 19th day of May, 2023.

Dorsey & Whitney, LLP

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