

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

**Northern States Power Company**  
**Advance Prudence – Sherco Solar 3 Project**  
**Application**

**Case No. PU-23-182**  
**OAH File No. 20230203**

**ORDER GRANTING TRADE SECRET PROTECTION**

1. Northern States Power Company, (“Xcel Energy” or the “Company”), filed an Application for Trade Secret Protection on May 19, 2023, to prevent the disclosure of certain trade secret and commercial information.

2. The identified information to be protected includes cost, capacity, forecasting, and project schedule information, including levelized cost of energy information, for the 250 MW Sherco Solar 3 Project and other resources that were analyzed as part of the Company’s August 1, 2022, request for proposals for 900 MW of solar and solar-plus-storage resources.

3. Commission staff, as required by N.D. Admin. Code § 69-02-09-03, has recommended that the Commission grant the protection of this information.

4. Under N.D.C.C. § 44-04-18.4(2)(a), commercial information is defined as information pertaining to the buying and selling of goods and services that has not been previously disclosed, and if disclosed would provide competitive injury to the person who from which the information was obtained.

6. The Company further states that cost, capacity, forecasting, and project schedule information is trade secret because it is information “(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” in N.D.C.C. § 44-25.1-01(4).

7. This Hearing Officer has fully reviewed and considered the application of Xcel and the recommendations of Commission staff and determines that the information is relevant for the hearing of this case, that the information is entitled to protection as commercial information because the information has not been previously publicly disclosed and is not readily ascertainable by proper means. The confidentiality of the information has been maintained by Xcel Energy. In addition, if the cost, capacity, forecasting and project schedule information, including levelized cost of energy information, were known to potential competitors, vendors, contractors, and suppliers, they could use the information to gain a competitive advantage on the Company in the future. If potential vendors and suppliers know what the Company has paid for Sherco Solar 3 and other resources, these prices could potentially serve as a floor below which a bidder would not submit a price. In addition, if pricing and forecasting information was publicly known, potential competitors would have the ability to undercut the Company for generation resources or large loads. This could be harmful to the Company’s customers.

8. **IT IS, THEREFORE, ORDERED** that the Northern States application for protection of the information herein is otherwise protected information pursuant to and in accordance with the provisions 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

9. **ORDERED** that this order shall not constitute precedent for a determination of entitlement to the protection of information for any information submitted upon any subsequent application.

Dated in Bismarck, North Dakota, this 18<sup>th</sup> day of January 2024.

State of North Dakota  
Public Service Commission



By: \_\_\_\_\_

Timothy J. Dawson  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, North Dakota 58503  
Telephone (701) 328-3200  
[tjdawson@nd.gov](mailto: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 18 day of January 2024, to:

John Schuh  
General Counsel  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

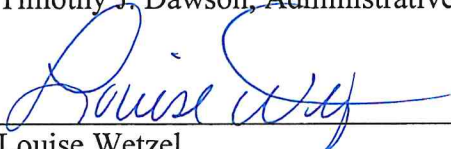
and that a true and correct copy of the above document was mailed, regular mail, on the 18 day of January 2024, to

Zeviel Simpser  
Dorsey & Whitney LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402-2157

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol on the 18 day of January 2024, 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

  
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Louise Wetzel