

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
2023 Electric Rate Increase
Application**

Case No. PU-23-342

STAFF RESPONSE TO APPLICATION FOR PROTECTION OF INFORMATION

JANUARY 10, 2024

On November 2, 2023, Otter Tail Power Company (OTP) filed an Application for Protection of Information to protect certain information in the captioned case.

The specific information for which OTP seeks protection includes the following items:

Customer-Specific Sales and Revenues: OTP's initial filing includes information regarding the annual and seasonal energy (kilowatt hour (kWh)) and demand (kilowatt (kW)) of individual customers. This customer-specific data is used in OTP's sales and revenue forecasts, class cost allocation and rate design. The initial filing also contains information regarding base rate revenue collected from individual customers under present and proposed rates, and customer-specific pricing. As the case develops, it is possible that more granular (i.e., monthly) customer-specific energy usage information, or other customer-specific information could be provided through discovery or in subsequent filings.

OTP Proprietary Modeling and Confidential Information: Several of the inputs and outputs to the sales and revenue forecast constitute propriety models or work product developed by OTP. Further, OTP's initial filing provides selected wage and compensation data of OTP employees.

Proprietary Information of Third Parties: OTP's initial filing contains information licensed or sold to OTP pursuant to contractual arrangements with third parties. Such information includes actuarial studies, employee compensation and benefits data, surveys, and benchmarking.

OTP asserts each of these categories of information described constitutes "trade secret information" as defined in N.D.C.C. §§ 44-04-18.4(2)(d) and 47-25.1-01(4). OTP also contends the information is "commercial information," as defined in N.D.C.C. § 44-04-18.4(2)(a), "financial information," as defined in N.D.C.C. § 44-04-18.4(2)(b), and "proprietary information" pursuant to N.D.C.C. § 44-04-18.4(2)(c)(5). The information is not publicly available, is confidential and proprietary business information, was prepared specifically for OTP with data inputs unique to OTP or is subject to agreements that require the ongoing confidentiality of the information.

This information's confidentiality has been maintained by OTP and is not ascertainable by proper means by other persons. If not protected, vendors and competitors would have an opportunity to obtain economic value from disclosure or use of the information to the detriment of OTP and its customers. If publicly available, the information could be used by alternative energy suppliers to compete with OTP for service to existing customers or in efforts to attract new customers. It also could be used by market participants in bidding or other strategies, ultimately to the detriment of OTP's customers. Further, customer-specific information has independent economic value to those customers themselves, who derive value from OTP's efforts to maintain its confidentiality. Some of the information represents significant work product of OTP, the cost of which generally is borne by customers through the payment of the cost of service.

Finally, entities could use the information to hire away talent from OTP or generally inhibit OTP's ability to retain and attract members of its workforce.

Staff has reviewed the information the company requests be treated as confidential information and believes that it complies with North Dakota Century Code and North Dakota Administrative Code and is generally the type of information that is granted protection.

Dated this 10th day of January 2024.



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