

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1565

In the Matter of) NW NATURAL'S FORM OF MODIFIED
) PROTECTIVE ORDER
PUBLIC UTILITY COMMISSION OF)
OREGON)
)
Investigation of Fuel Switching and Cross)
Fuel Energy Efficiency Issues.)

Attached is NW Natural's form of modified protective order. The General Protective Order entered in this docket was used as the starting point. Following CUB's suggestion at the prehearing conference, it contains ideas and provisions borrowed from the modified protective order in UG 221, although this proposed modified order is simpler.

Generally speaking, with respect to non-utility parties, the order is essentially the same as the form of General Protective Order—there is no difference in the level of protection between Confidential Information and Highly Confidential Information. With respect to utility parties and trade secret or competitively-sensitive commercial information (Highly Confidential Information), the form of modified order limits disclosure to the utility party's counsel of record, to persons who report directly to counsel of record (e.g., legal assistants), and to outside consultants and advisors.

NW Natural believes that this form of order is narrowly tailored to accomplish its

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...

...

intended purpose of appropriately protecting the disclosure of trade secret or competitively-sensitive commercial information to competitors. The form of order is reciprocal—meaning it limits NW Natural’s access to certain information just as much as it does other utility parties.

CUB tells NW Natural that it will object to this form. The parties will communicate further.

DATED this 26th day of March, 2012.

ESLER, STEPHENS & BUCKLEY, LLP

By: /s/ John W. Stephens
John W. Stephens, OSB No. 773583
Of Attorneys for Northwest Natural Gas
Company

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1565

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of Fuel Switching and
Cross Fuel Energy Efficiency Issues.

~~GENERAL~~ MODIFIED
PROTECTIVE
ORDER

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On March 26, 2012, Northwest Natural Gas Company, dba NW Natural filed a motion for a protective order with the Public Utility Commission of Oregon. NW Natural seeks a protective order with an added level of protection beyond the Commission's general protective order. NW Natural argues that a heightened level of protection is necessary to protect sensitive commercial information sought by its competitors. NW Natural states that, in general, a protective order is necessary to protect confidential customer information and confidential business plans and strategies. NW Natural adds that the public release of this information could prejudice the company and its customers.

~~The issue of a two-tiered protective order is still under discussion. In the meantime,~~ I find that good cause exists to issue a general-modified two-tiered protective order, which is attached as Appendix A. The order permits the broadest possible discovery consistent with the need to protect confidential information and highly confidential information. It shields no specific documents and makes no judgment about whether any particular document contains a trade secret or commercially sensitive information. Rather, the order adopts a process for resolving discovery disputes that include sensitive information.

The order permits any party to designate information as confidential if the party reasonably believes that the information falls within the scope of ORCP 36(C)(7). The order also permits any party to designate confidential information as highly confidential if the party reasonably believes that the information is trade secret or other competitively-sensitive confidential research, development, or commercial information. The confidential and highly confidential designation must be made in good faith and be limited to only those portions of the document that qualify as confidential or highly confidential information under this order. ~~a protected trade secret or other confidential research, development, or commercial information.~~ Any other party may challenge the

designation of information as confidential or highly confidential. The designating party bears the burden of showing that the challenged information is confidential or highly confidential information under this order~~recovered by ORCP 36(C)(7)~~.

Confidential information may be disclosed only to a “qualified person” as defined in paragraph 43 of the general-modified protective order. The authors of the confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, and counsel of record for a party or persons directly employed by counsel are “qualified persons” and may review confidential information without individually signing the general-modified protective order. Other persons wanting access to confidential information must become qualified under paragraph 14.

Highly confidential information may be disclosed only to a “qualified person” as defined in paragraph 5 of the modified protective order. The authors of the highly confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, counsel of record for a party, persons directly employed by counsel for non-utility parties, and persons who report directly to counsel for utility parties (e.g., legal assistants) are “qualified persons” and may review highly confidential information without individually signing the modified protective order. With respect to non-utility parties, other persons wanting access to highly confidential information must become qualified under paragraph 14. With respect to utility parties, independent consultants or advisors wanting access to highly confidential information must become qualified under paragraph 14.

To receive confidential or highly confidential information under the terms of the protective order, all parties except Commission Staff must sign the “consent to be bound” in section I of Appendix B. This includes the party that moved for issuance of the general-modified protective order because any party may designate information as confidential or highly confidential under the order. By signing the “consent to be bound,” a party agrees to be bound by the terms of the general-modified protective order and certifies that it has an interest in the proceedings that is not adequately represented by other parties to the proceedings.

All persons given access to confidential or highly confidential information must monitor their own conduct to ensure compliance with the general-modified protective order. Without the written permission of the designating party, no person may use or disclose the information for any purpose other than participating in these proceedings. All qualified persons must take reasonable precautions to keep confidential and highly confidential information secure. Questions regarding whether a particular person is a “qualified person” under the general-modified protective order may be directed to the Administrative Hearings Division at (503) 378-6678.

ORDER

IT IS ORDERED that the ~~General~~Modified Protective Order, attached as Appendix A, governs the disclosure of confidential and highly confidential information in these proceedings.

Made, entered, and effective on _____.

Lisa D. Hardie
Administrative Law Judge

A party may appeal this order to the Commission under OAR 860-001-0420.

~~GENERAL~~ MODIFIED PROTECTIVE ORDER
DOCKET NO. UM 1565

Scope of this Order:

1. This order governs the acquisition and use of Confidential Information and Highly Confidential Information in these proceedings.

Definitions:

2. “Confidential Information” is information that falls within the scope of ORCP 36(C)(7) (“a trade secret or other confidential research, development, or commercial information”).

3. “Highly Confidential Information” is information that falls within the scope of ORCP 36(C)(7) that is trade secret or other competitively-sensitive confidential research, development, or commercial information and is not adequately protected by the protection provided to Confidential Information.

34. ~~A~~With respect to Confidential Information, a “Qualified Person” is an individual who is:

- a. An author, addressee, or originator of Confidential Information;
- b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record; or
- e. A person qualified under paragraph 140, including parties and their employees.

5. With respect to Highly Confidential Information, a “Qualified Person” is an individual who is:

- a. An author, addressee, or originator of the Highly Confidential Information;
- b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record for a non-utility party, or who reports directly to counsel of record of a utility party (e.g., a legal assistant);
- e. With respect to a non-utility party, a person qualified under paragraph 14, including non-utility parties and their employees; or

f. With respect to a utility party, its independent consultants or advisors provided they comply with paragraph 14.

Designation of Confidential Information or Highly Confidential Information:

46. A party providing Confidential Information must inform other parties that the material has been designated confidential by placing the following legend on the material:

CONFIDENTIAL
SUBJECT TO ~~GENERAL~~MODIFIED PROTECTIVE ORDER

To the extent practicable, the party may designate as confidential only the portions of the material covered by ORCP 36(C)(7).

7. A party providing Highly Confidential Information must inform other parties that the material has been designated confidential by placing the following legend on the material:

HIGHLY CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party may designate as Highly Confidential only the portions of the material that are Highly Confidential.

58. A party may designate as ~~e~~Confidential or Highly Confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated Confidential Information or Highly Confidential must, when feasible, ensure that all copies of the information bear the above legend if requested by the designating party.

69. Any other party may challenge the designation of information as ~~e~~Confidential or Highly Confidential by notifying the designating party. Once notified, the designating party bears the burden of showing that the challenged information is Confidential Information or is Highly Confidential Information~~covered by ORCP 36(C)(7).~~

Information Given to the Commission:

710. Confidential Information filed or provided to the Commission or its Staff must be printed on yellow paper and placed in a sealed envelope or other appropriate container. **Only the portions of a document that fall within ORCP 36(C)(7) may be placed in the envelope/container.** The envelope/container must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. _____ AND
CONTAINS CONFIDENTIAL INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THE ORDER.

11. Highly Confidential Information that is (a) filed with or provided to the Commission or its Staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, must be printed on GREEN paper, separately bound, and placed in a sealed envelope or other appropriate container. An original and five copies, each separately sealed, must be provided to the Commission. **Only the portions of a document that are Highly Confidential may be placed in the envelope/container.** The envelope/container must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. _____ AND
CONTAINS HIGHLY CONFIDENTIAL INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THIS ORDER.

Disclosure of Confidential Information or Highly Confidential Information:

812. To receive Confidential Information or Highly Confidential Information, all parties except Commission Staff must sign the “consent to be bound” in section I of Appendix B. Confidential Information may not be disclosed to any person other than a Qualified Person. Highly Confidential Information may not be disclosed to any person other than a Qualified Person with respect to Highly Confidential Information. When feasible, Confidential Information and Highly Confidential Information must be delivered to counsel. In the alternative, Confidential Information and Highly Confidential Information may be made available for inspection and review by Qualified Persons in a place and time agreeable to the parties or as directed by the ALJ.

913. A Qualified Person may disclose Confidential Information to any other Qualified Person associated with the same party, unless the designating party objects under paragraph 154. A Qualified Person with respect to Highly Confidential Information may disclose Highly Confidential Information to any other Qualified Person with respect to Highly Confidential Information associated with the same party, unless the designating party objects under paragraph 15.

140. To become a Qualified Person under paragraph 34(e) or 5(e) or (f), a person must:

- a. Read a copy of this general-modified protective order;
- b. Execute a statement acknowledging that the order has been read and agreeing to be bound by the terms of the order;
- c. Date the statement;
- d. Provide a name, address, employer, and job title; and
- e. If the person is a consultant or advisor for a party, provide a description of the nature of the person’s consulting or advising practice, including the identity of current, past, and expected clients.

Counsel must deliver a copy of the signed statement including the information in (d) and (e) to the designating party and to all parties of record. The notification may be made by electronic mail or facsimile. A person qualified under paragraph 34(e) or 5(e) or (f) may not have access to Confidential Information or Highly Confidential Information sooner than seven days after the designating party receives a copy of the signed statement.

154. All Qualified Persons may have access to Confidential Information and all Qualified Persons with respect to Highly Confidential Information may have access to Highly Confidential Information unless the designating party objects as provided in this paragraph. The designating party must provide written notice to the Qualified Person and counsel for the party associated with the Qualified Person as soon as the designating party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Confidential Information or Highly Confidential Information on an informal basis before filing a motion with the ALJ. After receipt of the written notice as required in this paragraph, the specific Confidential Information or Highly Confidential Information may not be disclosed to the Qualified Person until the issue is resolved.

Preservation of Confidentiality:

162. Without the written permission of the designating party, any person given access to Confidential Information or Highly Confidential Information under this order may not use or disclose Confidential Information or Highly Confidential Information for any purpose other than participating in these proceedings. All Qualified Persons must take reasonable precautions to keep Confidential Information and Highly Confidential Information secure. Disclosure of Confidential Information or Highly Confidential Information for purposes of business competition is strictly prohibited.

A Qualified Person may reproduce Confidential Information or Highly Confidential Information to the extent necessary to participate in these proceedings. A Qualified Person may disclose Confidential Information only to other Qualified Persons associated with the same party. A Qualified Person with respect to Highly Confidential Information may disclose Highly Confidential Information only to other Qualified Persons with respect to Highly Confidential Information associated with the same party.

Duration of Protection:

173. The Commission will preserve the confidentiality of Confidential Information and Highly Confidential Information for a period of five years from the date of the final order in these proceedings, unless extended by the Commission at the request of the designating party. The Commission will notify the designating party at least two weeks prior to the release of Confidential Information or Highly Confidential Information.

Destruction After Proceedings:

184. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Confidential Information or Highly Confidential Information to the extent reasonably necessary to maintain a file of these proceedings or to comply with requirements imposed by another governmental agency or court order. The information retained may not be disclosed to any person. Any other person retaining Confidential Information or Highly Confidential Information must destroy or return it to the designating party within 90 days after final resolution of these proceedings unless the designating party consents in writing to retention of the Confidential Information or the Highly Confidential Information. This paragraph does not apply to the Commission or its Staff.

Appeal to the Presiding Officer:

195. Any party may request that the ALJ conduct a conference to help resolve disputes related to this protective order.

A party challenging the designation of information as confidential or highly confidential may file an objection with the ALJ that identifies the information in dispute and includes a certification that reasonable efforts to achieve an informal resolution have been unsuccessful. Within seven days of the objection, unless otherwise ordered by the ALJ, the designating party must either remove the ~~confidential~~ designation or file a written response identifying the legal basis for the claim of confidentiality or high confidentiality. The challenging party may file a written reply to any response within seven days. If the designating party does not timely respond to the motion, the Commission will remove the ~~confidential~~ designation from the challenged information.

Additional Protection:

1620. If a designating party seeks additional protection for Confidential Information of Highly Confidential Information, the party may move for any of the remedies in ORCP 36(C). The motion must include:

- a. The parties involved;
- b. The exact nature of the information involved;
- c. The legal basis for the claim that the information is protected under ORCP 36(C)(7) or the Public Records Law;
- d. The exact nature of the relief requested;
- e. The specific reasons the requested relief is necessary;
and
- f. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient.

Pending the Commission's ruling on a motion for additional protection, the information involved need not be released.

SIGNATORY PAGE
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III. Persons Qualified under Paragraph 34(e) or Paragraphs 5(e) or (f):

I have read the general-modified protective order, agree to be bound by the terms of the order, and will provide the information identified in paragraph 140.

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

Paragraph 140(e) information also provided.

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

Paragraph 140(e) information also provided.

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

Paragraph 140(e) information also provided.

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

Paragraph 140(e) information also provided.

**BEFORE THE PUBLIC UTILITY COMMISSION
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In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of Fuel Switching and
Cross Fuel Energy Efficiency Issues.

**MODIFIED
PROTECTIVE
ORDER**

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On March 26, 2012, Northwest Natural Gas Company, dba NW Natural filed a motion for a protective order with the Public Utility Commission of Oregon. NW Natural seeks a protective order with an added level of protection beyond the Commission's general protective order. NW Natural argues that a heightened level of protection is necessary to protect sensitive commercial information sought by its competitors. NW Natural states that, in general, a protective order is necessary to protect confidential customer information and confidential business plans and strategies. NW Natural adds that the public release of this information could prejudice the company and its customers.

I find that good cause exists to issue a modified two-tiered protective order, which is attached as Appendix A. The order permits the broadest possible discovery consistent with the need to protect confidential information and highly confidential information. It shields no specific documents and makes no judgment about whether any particular document contains a trade secret or commercially sensitive information. Rather, the order adopts a process for resolving discovery disputes that include sensitive information.

The order permits any party to designate information as confidential if the party reasonably believes that the information falls within the scope of ORCP 36(C)(7). The order also permits any party to designate confidential information as highly confidential if the party reasonably believes that the information is trade secret or other competitively-sensitive confidential research, development, or commercial information. The confidential and highly confidential designation must be made in good faith and be limited to only those portions of the document that qualify as confidential or highly confidential information under this order.. Any other party may challenge the designation of information as confidential or highly confidential. The designating party

bears the burden of showing that the challenged information is confidential or highly confidential information under this order.

Confidential information may be disclosed only to a “qualified person” as defined in paragraph 4 of the modified protective order. The authors of the confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, and counsel of record for a party or persons directly employed by counsel are “qualified persons” and may review confidential information without individually signing the modified protective order. Other persons wanting access to confidential information must become qualified under paragraph 14.

Highly confidential information may be disclosed only to a “qualified person” as defined in paragraph 5 of the modified protective order. The authors of the highly confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, counsel of record for a party, persons directly employed by counsel for non-utility parties, and persons who report directly to counsel for utility parties (e.g., legal assistants) are “qualified persons” and may review highly confidential information without individually signing the modified protective order. With respect to non-utility parties, other persons wanting access to highly confidential information must become qualified under paragraph 14. With respect to utility parties, independent consultants or advisors wanting access to highly confidential information must become qualified under paragraph 14.

To receive confidential or highly confidential information under the terms of the protective order, all parties except Commission Staff must sign the “consent to be bound” in section I of Appendix B. This includes the party that moved for issuance of the modified protective order because any party may designate information as confidential or highly confidential under the order. By signing the “consent to be bound,” a party agrees to be bound by the terms of the modified protective order and certifies that it has an interest in the proceedings that is not adequately represented by other parties to the proceedings.

All persons given access to confidential or highly confidential information must monitor their own conduct to ensure compliance with the modified protective order. Without the written permission of the designating party, no person may use or disclose the information for any purpose other than participating in these proceedings. All qualified persons must take reasonable precautions to keep confidential and highly confidential information secure. Questions regarding whether a particular person is a “qualified person” under the modified protective order may be directed to the Administrative Hearings Division at (503) 378-6678.

ORDER

IT IS ORDERED that the Modified Protective Order, attached as Appendix A, governs the disclosure of confidential and highly confidential information in these proceedings.

Made, entered, and effective on _____.

Lisa D. Hardie
Administrative Law Judge

A party may appeal this order to the Commission under OAR 860-001-0420.

MODIFIED PROTECTIVE ORDER
DOCKET NO. UM 1565

Scope of this Order:

1. This order governs the acquisition and use of Confidential Information and Highly Confidential Information in these proceedings.

Definitions:

2. “Confidential Information” is information that falls within the scope of ORCP 36(C)(7) (“a trade secret or other confidential research, development, or commercial information”).

3. “Highly Confidential Information” is information that falls within the scope of ORCP 36(C)(7) that is trade secret or other competitively-sensitive confidential research, development, or commercial information and is not adequately protected by the protection provided to Confidential Information.

4. With respect to Confidential Information, a “Qualified Person” is an individual who is:

- a. An author, addressee, or originator of Confidential Information;
- b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record; or
- e. A person qualified under paragraph 14, including parties and their employees.

5. With respect to Highly Confidential Information, a “Qualified Person” is an individual who is:

- a. An author, addressee, or originator of the Highly Confidential Information;
- b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record for a non-utility party, or who reports directly to counsel of record of a utility party (e.g., a legal assistant);
- e. With respect to a non-utility party, a person qualified under paragraph 14, including non-utility parties and their employees; or

- f. With respect to a utility party, its independent consultants or advisors provided they comply with paragraph 14.

Designation of Confidential Information or Highly Confidential Information:

6. A party providing Confidential Information must inform other parties that the material has been designated confidential by placing the following legend on the material:

CONFIDENTIAL
SUBJECT TO MODIFIED PROTECTIVE ORDER

To the extent practicable, the party may designate as confidential only the portions of the material covered by ORCP 36(C)(7).

7. A party providing Highly Confidential Information must inform other parties that the material has been designated confidential by placing the following legend on the material:

HIGHLY CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party may designate as Highly Confidential only the portions of the material that are Highly Confidential.

8. A party may designate as Confidential or Highly Confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated Confidential Information or Highly Confidential must, when feasible, ensure that all copies of the information bear the above legend if requested by the designating party.

9. Any other party may challenge the designation of information as Confidential or Highly Confidential by notifying the designating party. Once notified, the designating party bears the burden of showing that the challenged information is Confidential Information or is Highly Confidential Information.

Information Given to the Commission:

10. Confidential Information filed or provided to the Commission or its Staff must be printed on yellow paper and placed in a sealed envelope or other appropriate container. **Only the portions of a document that fall within ORCP 36(C)(7) may be placed in the envelope/container.** The envelope/container must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. _____ AND
CONTAINS CONFIDENTIAL INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THE ORDER.

11. Highly Confidential Information that is (a) filed with or provided to the Commission or its Staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, must be printed on GREEN paper, separately bound, and placed in a sealed envelope or other appropriate container. An original and five copies, each separately sealed, must be provided to the Commission. **Only the portions of a document that are Highly Confidential may be placed in the envelope/container.** The envelope/container must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. _____ AND
CONTAINS HIGHLY CONFIDENTIAL INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THIS ORDER.

Disclosure of Confidential Information or Highly Confidential Information:

12. To receive Confidential Information or Highly Confidential Information, all parties except Commission Staff must sign the “consent to be bound” in section I of Appendix B. Confidential Information may not be disclosed to any person other than a Qualified Person. Highly Confidential Information may not be disclosed to any person other than a Qualified Person with respect to Highly Confidential Information. When feasible, Confidential Information and Highly Confidential Information must be delivered to counsel. In the alternative, Confidential Information and Highly Confidential Information may be made available for inspection and review by Qualified Persons in a place and time agreeable to the parties or as directed by the ALJ.

13. A Qualified Person may disclose Confidential Information to any other Qualified Person associated with the same party, unless the designating party objects under paragraph 15. A Qualified Person with respect to Highly Confidential Information may disclose Highly Confidential Information to any other Qualified Person with respect to Highly Confidential Information associated with the same party, unless the designating party objects under paragraph 15.

14. To become a Qualified Person under paragraph 4(e) or 5(e) or (f), a person must:
- a. Read a copy of this modified protective order;
 - b. Execute a statement acknowledging that the order has been read and agreeing to be bound by the terms of the order;
 - c. Date the statement;
 - d. Provide a name, address, employer, and job title; and
 - e. If the person is a consultant or advisor for a party, provide a description of the nature of the person’s consulting or advising practice, including the identity of current, past, and expected clients.

Counsel must deliver a copy of the signed statement including the information in (d) and (e) to the designating party and to all parties of record. The notification may be made by electronic mail or facsimile. A person qualified under paragraph 4(e) or 5(e) or (f) may not have access to Confidential Information or Highly Confidential Information sooner than seven days after the designating party receives a copy of the signed statement.

15. All Qualified Persons may have access to Confidential Information and all Qualified Persons with respect to Highly Confidential Information may have access to Highly Confidential Information unless the designating party objects as provided in this paragraph. The designating party must provide written notice to the Qualified Person and counsel for the party associated with the Qualified Person as soon as the designating party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Confidential Information or Highly Confidential Information on an informal basis before filing a motion with the ALJ. After receipt of the written notice as required in this paragraph, the specific Confidential Information or Highly Confidential Information may not be disclosed to the Qualified Person until the issue is resolved.

Preservation of Confidentiality:

16. Without the written permission of the designating party, any person given access to Confidential Information or Highly Confidential Information under this order may not use or disclose Confidential Information or Highly Confidential Information for any purpose other than participating in these proceedings. All Qualified Persons must take reasonable precautions to keep Confidential Information and Highly Confidential Information secure. Disclosure of Confidential Information or Highly Confidential Information for purposes of business competition is strictly prohibited.

A Qualified Person may reproduce Confidential Information or Highly Confidential Information to the extent necessary to participate in these proceedings. A Qualified Person may disclose Confidential Information only to other Qualified Persons associated with the same party. A Qualified Person with respect to Highly Confidential Information may disclose Highly Confidential Information only to other Qualified Persons with respect to Highly Confidential Information associated with the same party.

Duration of Protection:

17. The Commission will preserve the confidentiality of Confidential Information and Highly Confidential Information for a period of five years from the date of the final order in these proceedings, unless extended by the Commission at the request of the designating party. The Commission will notify the designating party at least two weeks prior to the release of Confidential Information or Highly Confidential Information.

Destruction After Proceedings:

18. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Confidential Information or Highly Confidential Information to the extent reasonably necessary to maintain a file of these proceedings or to comply with requirements imposed by another governmental agency or court order. The information retained may not be disclosed to any person. Any other person retaining Confidential Information or Highly Confidential Information must destroy or return it to the designating party within 90 days after final resolution of these proceedings unless the designating party consents in writing to retention of the Confidential Information or the Highly Confidential Information. This paragraph does not apply to the Commission or its Staff.

Appeal to the Presiding Officer:

19. Any party may request that the ALJ conduct a conference to help resolve disputes related to this protective order.

A party challenging the designation of information as confidential or highly confidential may file an objection with the ALJ that identifies the information in dispute and includes a certification that reasonable efforts to achieve an informal resolution have been unsuccessful. Within seven days of the objection, unless otherwise ordered by the ALJ, the designating party must either remove the designation or file a written response identifying the legal basis for the claim of confidentiality or high confidentiality. The challenging party may file a written reply to any response within seven days. If the designating party does not timely respond to the motion, the Commission will remove the designation from the challenged information.

Additional Protection:

20. If a designating party seeks additional protection for Confidential Information of Highly Confidential Information, the party may move for any of the remedies in ORCP 36(C). The motion must include:

- a. The parties involved;
- b. The exact nature of the information involved;
- c. The legal basis for the claim that the information is protected under ORCP 36(C)(7) or the Public Records Law;
- d. The exact nature of the relief requested;
- e. The specific reasons the requested relief is necessary;
and
- f. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient.

Pending the Commission's ruling on a motion for additional protection, the information involved need not be released.

SIGNATORY PAGE
DOCKET NO. UM 1565

III. Persons Qualified under Paragraph 4(e) or Paragraphs 5(e) or (f):

I have read the modified protective order, agree to be bound by the terms of the order, and will provide the information identified in paragraph 14.

By: Signature: _____ Date: _____
Printed Name: _____
Address: _____
Employer: _____
Job Title: _____
 Paragraph 14(e) information also provided.

By: Signature: _____ Date: _____
Printed Name: _____
Address: _____
Employer: _____
Job Title: _____
 Paragraph 14(e) information also provided.

By: Signature: _____ Date: _____
Printed Name: _____
Address: _____
Employer: _____
Job Title: _____
 Paragraph 14(e) information also provided.

By: Signature: _____ Date: _____
Printed Name: _____
Address: _____
Employer: _____
Job Title: _____
 Paragraph 14(e) information also provided.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **NW NATURAL'S FORM OF MODIFIED PROTECTIVE ORDER** on the following persons on March 26, 2012:

Maureen Bock
maureen.p.bock@state.or.us
Oregon Department of Energy
625 Marion Street NE
Salem, Oregon 97301

- by hand-delivery
- by facsimile
- by first class mail
- by e-mail

Vijay A. Satyal
vijay.a.satyal@state.or.us
Senior Policy Analyst
Oregon Dept. of Energy
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