

## TAYLOR Annette M

---

**From:** TAYLOR Annette M  
**Sent:** Monday, March 10, 2014 11:53 AM  
**To:** TAYLOR Annette M  
**Subject:** RE: UM 1654: Request for Expedited Teleconference to Clarify Scope of CUB Data Requests

**From:** Lisa Rackner [<mailto:lisa@mcd-law.com>]  
**Sent:** Monday, March 10, 2014 9:25 AM  
**To:** PINES Shani  
**Cc:** [dockets@oregoncub.org](mailto:dockets@oregoncub.org); [efiling@nwnatural.com](mailto:efiling@nwnatural.com); [tbrooks@cablehouston.com](mailto:tbrooks@cablehouston.com); COLVILLE Erik; [bob@oregoncub.org](mailto:bob@oregoncub.org); JONES Jason W; [catriona@oregoncub.org](mailto:catriona@oregoncub.org); [dockets](mailto:dockets); [cstokes@cablehouston.com](mailto:cstokes@cablehouston.com); [mark.thompson@nwnatural.com](mailto:mark.thompson@nwnatural.com); King, Onita; [keith.white@nwnatural.com](mailto:keith.white@nwnatural.com); Friedman, Randy; Miller, C. Alex  
**Subject:** UM 1654: Request for Expedited Teleconference to Clarify Scope of CUB Data Requests

Judge Pines:

For the following reasons, NW Natural requests that you schedule a teleconference on an expedited basis to clarify the scope of the post-hearing data requests CUB is permitted to serve in this case.

At the February 3, 2014 hearing, CUB requested and was granted an opportunity to serve post-hearing data requests on NW Natural related to new information provided by NW Natural witnesses in response to the Commissioners' questions. At the time, NW Natural sought clarification on the scope of the data requests. Unfortunately, the discussion on the scope of the data requests was held off the record; however, NW Natural recalls your honor agreeing that the scope would be limited.

At the telephone conference held on February 11, 2014, NW Natural again sought clarification on the scope of the data requests CUB would be allowed to serve. While your honor did not go into detail, you did confirm that the Commission did not envision that CUB would be allowed to go on a "fishing expedition." Thus, based on our recollection of your statements at the hearing and again on the telephone conference, NW Natural expected that CUB would be allowed to serve data requests to explore statements made by NW Natural at the hearing regarding matters (a) not covered in NW Natural's written testimony or responses to data requests; and (2) that CUB would not reasonably have been able to inquire about based written testimony or responses to data requests. Moreover, we assumed that the data requests would be modest in number.

On February 6, 2014 we received the attached set of **eighty-one new data requests** from CUB—many of which are multi-part. For reference, prior to this set of post-hearing requests, CUB served only 25 data requests in this case. (The numbering of the post-hearing set, beginning on number \_\_ is in error.) For the following reasons we believe that the vast majority of them are outside the scope of the ALJ's order.

First, a great number of the data requests ask for information that was contained in our written testimony or responses to data requests: For instance CUB's first post-hearing data request states as follows:

- *Please refer to NWN/100 White/5 line 16. Of the \$65 million referenced here how much of that MIST storage has been recalled for core customer use?*

The answer to this question is contained in NWN/200, Friedman/5, where Mr. Friedman explains exactly how much MIST storage has been recalled to date. In addition, NW Natural's response to CUB DR 22 provided all documentation regarding those recalls.

Second, many of the data requests ask for information that CUB easily could have asked for prior to the hearing. For instance, CUB's second post-hearing data request is the following:

- Refer to the following web link and the statement contained thereon:  
<https://www.nwnatural.com/AboutNWNatural/RatesAndRegulations/RegulatoryActivities/Mist/>

***“How is Mist Utilized?”***

*By 2009, a total of 51 reservoirs had been discovered and 71 billion cubic feet (bcf) of natural gas, or about 667 million therms, had been extracted. This gas, called production gas, continues to flow in NW Natural’s system each day. Once natural gas was extracted from two of the larger reservoirs, the Flora and Bruer Pools, NW Natural found that it could use them as underground storehouses. Large amounts of natural gas could be injected into these empty reservoirs—which are located in a large body of buried sandstone—and could then be withdrawn as needed.”*

*With regard to the above, and Mr. White and Mr. Friedman’s testimony on February 3, 2014 in regard to seven (7) reservoirs at MIST, please provide the following information:*

- In what year did NWN commence extraction of production gas from MIST?*
- What were the production gas revenues at MIST per year over the course of the life of all MIST production gas wells per well? Please provide name, annual production bcf, annual revenue, annual production cost for each well?*
- How many BCF of production gas are still in production today?*
- Were all of the production gas wells paid for with ratepayer dollars?*

This request also asks for information that CUB easily could have requested prior to the hearing. NW Natural’s testimony made it clear that it has constructed and maintains a number of storage reservoirs at MIST. At any point in this case, CUB could have sought the information contained in this request.

In the end, after carefully reviewing each of CUB’s data requests, NW Natural believes that 17 of the 81 are fairly within the scope of your instructions.

NW Natural has discussed its concerns about the data requests with CUB. Although CUB generally agrees that the data requests are limited to new information that was elicited at the hearing, CUB believes that all eighty-one of its requests fall within that scope. Based on this discussion, NW Natural has concluded that the parties have an honest disagreement as to whether you intended to permit CUB to ask about any of the information it heard at hearing, or only the new subject matter that it could not reasonably have been expected to inquire about prior to the hearing—or something in between.

If possible, NW Natural would like to avoid litigating the merits of each of the eighty one data requests and therefore requests an informal teleconference for the purpose of clarifying intended scope of the data requests. Such clarification may reduce or eliminate the need for formal motion practice related to the requests. We have discussed this approach with CUB and CUB is agreeable.

Finally, we request that the teleconference be set on an expedited basis, to avoid further delay in the process.

Thank you for your attention to this matter,

Lisa Rackner

Direct: 503 595-3925  
Mobile: 503 724-9547  
[lisa@mcd-law.com](mailto:lisa@mcd-law.com)

**PRIVILEGE AND CONFIDENTIALITY NOTICE:** THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUALS OR ENTITIES NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERY OF IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY ME BY TELEPHONE OR E-MAIL, AND DESTROY THIS MESSAGE. THANK YOU.