

KINDLEY LAW, PC

RAYMOND S. KINDLEY

ADMITTED IN OREGON AND WASHINGTON

May 10, 2017

Via Electronic Filing

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-2148

Re: UM 1823 –Columbia Basin Electric Cooperative, Inc., v. Umatilla Electric Cooperative

Attention PUC Filing Center:

This errata filing is being made to correct an error in Exhibit G to Columbia Basin Electric Cooperative, Inc.'s Motion to Compel, filed on May 5, 2017. The version originally filed was missing pages 59-64. This errata filing is intended to replace the May 5th version of Exhibit G in its entirety.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/Raymond S. Kindley

Raymond S. Kindley
KINDLEY LAW, P.C.
Of attorneys for Columbia Basin
Electric Cooperative, Inc.

Kirk Gibson

From: Ray Kindley <kindleylaw@comcast.net>
Sent: Friday, April 07, 2017 1:44 PM
To: tbrooks@cablehouston.com; cstokes@cablehouston.com
Cc: kindleylaw@comcast.net; Kirk Gibson
Subject: Discovery Issues

Tommy and Chad,

At appears from UEC's response on CBEC's discovery requests, that UEC is not going to provide the information requested in Requests Nos. 1, 2 and 3 on the grounds that UEC claims those requests concern irrelevant information. Please note each of those requests ask for information that directly relate to statements made in UEC's Answer, paragraph 22, that 2Morrow Energy and Wheatridge Wind made transmission requests to UEC, and 2Morrow Energy assigned its rights to Wheatridge Wind. CBEC wants those documents to substantiate UEC's statements. CBEC also reasonably believes those documents will lead to additional admissible evidence.

CBEC data request No. 9 asks for documents relating to CBEC's future service of the retail electric loads of the Wheatridge Wind project. This request is responding to UEC's claim in paragraph 42 of UEC's Answer, which states, "All auxiliary power to the Wheatridge Project's retail load in CBEC's service territory would be provided by CBEC." UEC's Response to CBEC data requests claims this data request is ambiguous and seeks irrelevant information. CBEC disagrees as the information requested directly relates to a claim that UEC made in its Answer.

CBEC data requests Nos. 12 and 13 asks for information regarding Wheatridge Wind's or Jerry Rietmann's interconnection request to BPA for the proposed transmission line from the Wheatridge Wind project to the BPA substation. In UEC's Notice of Appearance to FERC regarding Wheatridge Wind's request for an Order for transmission and interconnection service from UEC at FERC, UEC claims it is capable of building the proposed transmission line. Wheatridge Wind's request for the FERC Order implies that Wheatridge made the interconnection request to BPA to interconnect the power line at the Morrow Flat substation. The issue as to who holds the interconnection rights at the Morrow Flat substation for the proposed transmission line and whether UEC has secured the necessary contract rights to interconnect the transmission line to BPA's substation is relevant to this case.

CBEC data request No. 14 requests Document related to Wheatridge's, Jerry Rietmann's or other parties' easement, right-of-way or other property rights for the location, construction and operation of the proposed transmission line. Again, UEC has alleged that it has the capability to construct the proposed transmission line, which raises the issue of who holds the property rights necessary for the transmission line. The property rights also would also indicate the proposed location of the transmission line and other factors such as capacity and whether the easements can be used for other utility services aside from just transmission. UEC claims the request is not relevant and seeks confidential, proprietary information. CBEC believes the information is relevant and/or may lead to admissible evidence and to the extent it is confidential, a protective order is in already in place to protect its confidentiality.

CBEC data request No. 15 requests Documents related to the size, location, capacity and other characteristics of the proposed transmission line and any proposed extension of the transmission line beyond interconnection with the Wheatridge Wind project. UEC claims that this data request asks for information that is irrelevant and confidential. The location, size, capacity and other physical characteristics of the line goes to the heart of UEC's defense that the line is a transmission line instead of a distribution line and not subject to PUC jurisdiction. UEC also claims in its Answer that the transmission line will only be used to export power from the Wheatridge Wind project to the BPA substation. If UEC has information that demonstrates the line would extend beyond the Wheatridge Wind project, then that information is relevant to UEC's claim in its Answer.

CBEC data request No. 16 requests Documents related to CBEC's potential involvement in the participation in the development, construction, and ownership of the proposed transmission line. UEC responds that the information is irrelevant and would not lead to admissible evidence. Contrary to UEC's position, UEC's documents concerning whether or not CBEC would participate in the construction, ownership and operation of the line is very relevant to the issue of UEC plans to invade CBEC territory with or without CBEC's consent or agreement.

CBEC data request No. 23 asks for UEC billings for the construction of UEC's facilities to connect the Willow Creek dairy's circles located in CBEC service territory to UEC's system. The information is relevant because it would list the facilities constructed and costs associate with that. Willow Creek Dairy has alleged in correspondence with CBEC that it asked UEC for service because it was more economical than connecting with CBEC's existing facilities next to the circles. If the information is confidential, a protective order is in place.

If UEC is not going to provide responses to the above requested information, please respond in writing with UEC's position and specific reasons for not providing the requested data for each request by close of business Monday, April 10. If UEC is going to provide the information, please let me know in writing when UEC will provide the data next week.

Also, please send a new disk with the responses to CBEC's first set of data requests. The disk that Cable Huston provides is corrupted and cannot be opened.

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Kirk Gibson

From: Chad Stokes <cstokes@cablehouston.com>
Sent: Friday, April 07, 2017 5:45 PM
To: Ray Kindley; Tommy Brooks
Cc: Kirk Gibson; Tom Grim
Subject: RE: Discovery Issues

Ray –

Thanks for reaching out. Today we sent you a second disk with another round of production responsive to your first request. We also included another version of the first disk. I'm not sure why you cannot open it; we checked it on our end to confirm that the disk can be opened and the documents loaded properly before we mailed it out. If the second attempt does not work, we will need to find an alternative means of sharing the documents.

Below we respond to your follow up questions from your email today.

1 – For CBEC requests 1, 2, and 3, UEC maintains the objections it presented in its initial response. The 2Morrow and Wheatridge projects are separate and distinct. Your data requests do little to narrow the scope of the request and acknowledge the difference in the two projects. Without waiving those objections, however, UEC will provide some documents responsive to those requests.

2 – For CBEC request 9, the request is very broad and asks about future service of Wheatridge's retail electric loads. Your email does not provide any clarification about the scope of this question. Similarly, any information about future service provided by CBEC would be the knowledge of, and in the possession of, CBEC. You are correct that UEC refers to CBEC's future retail service in its Answer. However, this is based on CBEC's own claim in the Complaint that it has the sole right to provide such retail service within its territory. This is not a point UEC disputes, nor does UEC plan to provide electric retail service to Wheatridge in CBEC's territory. The documents provided today and in the future, to the extent they address retail service at all, are the only documents that UEC has to provide.

3 - For CBEC requests 12 and 13, UEC maintains the objections it presented in its initial response. Without waiving those objections, however, UEC will provide documents responsive to those requests.

4 – For CBEC request 14, UEC maintains its objections, including the objection to the overbroad nature of the request. Easements and other property rights do not bear on whether UEC is unlawfully providing utility service in CBEC's territory. To the extent such property interest demonstrate the location of the Wheatridge line, as you note in your email, the location of the line is not in dispute and UEC is providing a significant number of documents that show the planned location and alternative locations considered.

5 – For CBEC request 15, UEC maintains its objections, including over the relevancy of this request. We disagree with your characterization that the components you describe in the request bear on whether the planned line is a transmission line or a distribution line. For example, the number of poles is irrelevant. Further, this request is overbroad and onerous. At heart, the request asks for any and all documents describing any characteristic of the proposed line. UEC insists that any requests about the function of the line as evidenced by its physical characteristics be narrowed so that we can conduct a reasonable search.

6 - For CBEC request 16, UEC maintains the objections it presented in its initial response. Without waiving those objections, however, UEC will provide documents responsive to this request.

7 – For CBEC request 23, UEC maintains the objections it presented in its initial response, including the objection regarding relevance of the request. UEC disagrees with your characterization of the relevance in your

email. Without waiving those objections, some of the documents UEC produces will be responsive to this request.

8 – For several of your arguments below, you have noted that there is a protective order in place. As noted in UEC’s response, we have documents we will provide as soon as you actually sign and become bound by the protective order.

Chad Stokes
Cable Huston LLP
1001 SW 5th Ave., Suite 2000
Portland, Or 97204-1136
503-224-3092
503-224-3176(fax)
cstokes@cablehuston.com

From: Ray Kindley [mailto:kindleylaw@comcast.net]
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Jordan Schoonover

From: Ray Kindley <kindleylaw@comcast.net>
Sent: Monday, May 01, 2017 3:57 PM
To: cstokes@cablehuston.com; tbrooks@cablehuston.com;
johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; Green, Derek; Cameron, John;
Tommy Wolff; Kirk Gibson; Jordan Schoonover
Cc: kindleylaw@comcast.net
Subject: Discovery Issues

Chad and Tommy,

As of today, CBEC has not received any data responses to CBEC Second Data Requests to UEC, which CBEC submitted to UEC on April 11, 2017. As you know, UEC provided an Answer, without any responsive documents attached, on April 24, 2017. Pursuant to PUC rules, UEC has 14 days to provide data responses. Please provide all documents responsive to these requests to Huddle by tomorrow at noon.

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UEC's failure to provide data responses on time and without any reference to the originating data request is harming CBEC's ability to complete discovery in this case.

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Sent: Monday, May 01, 2017 5:15 PM
To: Ray Kindley; Tommy Brooks; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; Green, Derek; Cameron, John; Tommy Wolff; Kirk Gibson; Jordan Schoonover
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Ray,

As we noted in our response to CBEC's second set of data requests, many of CBEC's new requests were duplicative and some requested a narrative response. We objected to the extent the requests were duplicative, provided narrative responses where appropriate, and produced some responsive documents on Friday. Contrary to your email, the documents uploaded to huddle did segregate the documents and noted the relevant data request. We acknowledge, however, that one of the notes describing which DR were being responded to was incomplete and we have updated that.

As far as the CBEC data requests to date, they are overly broad and duplicative. For example, we have already produced the facilities agreement and letter of intent in our first production, but you continue to make requests that would require those documents to be produced. We are in the process of uploading and segregating documents to Huddle, but because of the volume of material you have requested, this will take time. As of today, UEC has provided documents in response to both CBEC's first and second request for production. You have had access to the documents for some time now and so you should have a good idea of the universe of documents we provided. I suggest we jump on a call later this week to discuss the status of the production.

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cstokes@cablehuston.com<mailto:cstokes@cablehuston.com>

From: Ray Kindley [kindleylaw@comcast.net]
Sent: Monday, May 01, 2017 3:56 PM
To: Chad Stokes; Tommy Brooks; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; Green, Derek; Cameron, John; Tommy Wolff; Kirk Gibson; 'Jordan Schoonover'
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Jordan Schoonover

From: Chad Stokes <cstokes@cablehuston.com>
Sent: Tuesday, May 02, 2017 4:52 PM
To: Ray Kindley; Tommy Brooks; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; Green, Derek; Cameron, John; Tommy Wolff; Kirk Gibson; Jordan Schoonover
Subject: RE: Discovery Issues

Ray, so that we can upload documents that have already been produced, the PUC is in the process of creating folders in Huddle that will allow us to distinguish between what's been produced and what is new. As soon as the folders have been created, we will upload the previously produced documents and the new documents, both of which will be grouped in categories to note which DR they are responsive to. Please let me know if you have any questions.

From: Chad Stokes
Sent: Monday, May 01, 2017 5:15 PM
To: Ray Kindley <kindleylaw@comcast.net>; Tommy Brooks <tbrooks@cablehuston.com>; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul <paul.rossow@state.or.us>; Green, Derek <DerekGreen@dwt.com>; Cameron, John <johncameron@DWT.COM>; Tommy Wolff <tommyw@columbiabasin.cc>; Kirk Gibson <kirk@mrg-law.com>; 'Jordan Schoonover' <jordan@mrg-law.com>
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From: Ray Kindley <kindleylaw@comcast.net>
Sent: Wednesday, May 03, 2017 12:26 PM
To: cstokes@cablehouston.com; tbrooks@cablehouston.com; Kirk Gibson; Jordan Schoonover; ROSSOW Paul; johanna.riemenschneider@doj.state.or.us; Green, Derek; Cameron, John; kindleylaw@comcast.net; Tommy Wolff
Subject: Discovery Issues in UM 1823
Attachments: CBEC Um 1823 Discovery Issues UEC.docx

Chad and Tommy,

I appreciate your recent effort to comply with CBEC's discovery requests. Unfortunately, the responses are severely lacking and a significant amount of time has been wasted by UEC's refusal to previously comply with CBEC's and Commission Staff's request for UEC to designate, on the produced documents, which data request they are responding to. Your email today appears to indicate that UEC still is not going to do that; instead it will only group responses in categories indicating what the information is responding to. That is unacceptable to CBEC.

Tommy Brooks has already uploaded some documents to Huddle and stated that the 90 some documents are responsive to a long list of data requests. That practice of referencing a group of documents still does not respond to CBEC's or, I believe, the Commission Staff specific requests. We are in the process of sorting through scores of documents attempting to determine if a particular document is responding to a particular data request. Much time is wasted because of the manner in which UEC has chosen to comply with CBEC's data requests.

It is also a significant concern that UEC is not providing the data/documents associated with its responses to CBEC's data requests within the required 14 day period. Perhaps, most important, CBEC has still not received responses to its data requests made at the beginning of April. Unless UEC immediately and substantially remedies this situation CBEC will be filing a motion to compel to get these issues resolved. Other motions may need to be filed to protect CBEC's interests.

UEC has also refused to respond, or only partial respond, to several CBEC data requests. I have attached a list of the issues and CBEC's comments. It appears that CBEC is taking a very narrow definition of what is relevant in this case. As you know, what is relevant under discovery standards is very broad. Please respond to this email immediately if UEC has any further comments.

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Subject: RE: Discovery Issues in UM 1823

Ray, lets schedule a discovery conference with the ALJ. Are you available tomorrow?

From: Ray Kindley [mailto:kindleylaw@comcast.net]
Sent: Wednesday, May 03, 2017 12:26 PM
To: Chad Stokes <cstokes@cablehuston.com>; Tommy Brooks <tbrooks@cablehuston.com>; Kirk Gibson <kirk@mrg-law.com>; 'Jordan Schoonover' <jordan@mrg-law.com>; ROSSOW Paul <paul.rossow@state.or.us>; johanna.riemenschneider@doj.state.or.us; Green, Derek <DerekGreen@dwt.com>; Cameron, John <johncameron@DWT.COM>; kindleylaw@comcast.net; Tommy Wolff <tommyw@columbiabasin.cc>
Subject: Discovery Issues in UM 1823

Chad and Tommy,

I appreciate your recent effort to comply with CBEC's discovery requests. Unfortunately, the responses are severely lacking and a significant amount of time has been wasted by UEC's refusal to previously comply with CBEC's and Commission Staff's request for UEC to designate, on the produced documents, which data request they are responding to. Your email today appears to indicate that UEC still is not going to do that; instead it will only group responses in categories indicating what the information is responding to. That is unacceptable to CBEC.

Tommy Brooks has already uploaded some documents to Huddle and stated that the 90 some documents are responsive to a long list of data requests. That practice of referencing a group of documents still does not respond to CBEC's or, I believe, the Commission Staff specific requests. We are in the process of sorting through scores of documents attempting to determine if a particular document is responding to a particular data request. Much time is wasted because of the manner in which UEC has chosen to comply with CBEC's data requests.

It is also a significant concern that UEC is not providing the data/documents associated with its responses to CBEC's data requests within the required 14 day period. Perhaps, most important, CBEC has still not received responses to its data requests made at the beginning of April. Unless UEC immediately and substantially remedies this situation CBEC will be filing a motion to compel to get these issues resolved. Other motions may need to be filed to protect CBEC's interests.

UEC has also refused to respond, or only partial respond, to several CBEC data requests. I have attached a list of the issues and CBEC's comments. It appears that CBEC is taking a very narrow definition of what is relevant in this case. As you know, what is relevant under discovery standards is very broad. Please respond to this email immediately if UEC has any further comments.

Ray Kindley

KINDLEY LAW, PC
PO Box 569
West Linn, OR 97068
Ph: (503) 206-1010
Email: kindleylaw@comcast.net

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Jordan Schoonover

From: Chad Stokes <cstokes@cablehuston.com>
Sent: Wednesday, May 03, 2017 2:19 PM
To: sarah.rowe@state.or.us; Jordan Schoonover; ROSSOW Paul;
johanna.riemenschneider@doj.state.or.us; Ray Kindley; Green, Derek; Cameron, John;
Kirk Gibson; Tommy Wolff; Tommy Brooks
Subject: RE: Discovery Issues in UM 1823

Judge Rowe,

The parties have run into some discovery issues in UM 1823. I believe it would be more efficient to schedule a call with you to discuss the issues now so that you can provide some guidance rather than having you respond to the same issues on a motion to compel. Do you have some time in the next couple of days for a call with the parties? Once we have the dates /times that work for you, the parties can discuss a mutually agreeable time for the call. Thank you.

Chad Stokes
Cable Huston LLP
1001 SW 5th Ave., Suite 2000
Portland, Or 97204-1136
503-224-3092
503-224-3176(fax)
cstokes@cablehuston.com

Jordan Schoonover

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Sent: Wednesday, May 03, 2017 3:37 PM
To: Green, Derek; Cameron, John; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; 'Chad Stokes'; tbrooks@cablehouston.com; Tommy Wolff; Kirk Gibson; Jordan Schoonover
Cc: kindleylaw@comcast.net
Subject: Discovery Issues in UM 1823
Attachments: CBEC UM 1823 Discovery Issues with WR Answr to CBEC 1st DR.docx

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Please let me know when you are available. I'm flexible between 12 and 2:30 Friday, and most of the day Monday (except 12-2).

Thanks,
Derek

Derek D. Green | Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2400 | Portland, OR 97201
Tel: (503) 778-5264 | Fax: (503) 778-5299
Email: derekgreen@dwt.com | Website: www.dwt.com

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Sent: Thursday, May 04, 2017 2:09 PM
To: Green, Derek
Cc: Ray Kindley; Cameron, John; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; Tommy Brooks; Tommy Wolff; Kirk Gibson; Jordan Schoonover
Subject: Re: Discovery Issues in UM 1823

That approach works for UEC and we can be available either Friday or Monday for a call. Thanks

Chad Stokes
Cable Huston
1001 SW 5th Ave., Suite 2000
Portland, Or 97204-1136
503-224-3092
503-224-3176(fax)
cstokes@cablehuston.com<mailto:cstokes@cablehuston.com>
Sent from my iPhone

On May 4, 2017, at 1:42 PM, Green, Derek <DerekGreen@dwt.com<mailto:DerekGreen@dwt.com>> wrote:

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To: 'Green, Derek'; 'Cameron, John'; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul'; 'Chad Stokes'; tbrooks@cablehouston.com; 'Tommy Wolff'; Kirk Gibson; Jordan Schoonover
Cc: kindleylaw@comcast.net
Subject: RE: Discovery Issues in UM 1823

Derek,

Before CBEC considers further discussions, I will need to talk with my client.

I'm sure the first question I will be asked is whether Wheatridge has posted or sent any responses to CBEC's data requests. I have not seen anything, but I want to make sure that I'm not missing anything.

Please let me know if Wheatridge has provided any data responses.

Thanks,

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Thanks,
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Derek and Chad,

It's premature to have a conference call. CBEC sent both UEC and Wheatridge detailed lists of discovery issues. We expected written responses by now. Please provide written responses to CBEC's discovery issues by 10 AM tomorrow, Friday, May 5.

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Subject: RE: Discovery Issues in UM 1823

Ray, I disagree that it is premature to have a call. The purpose of the call is to discuss the discovery issues raised by CBEC, and since CBEC has similar complaints with the Wheatridge and UEC productions and objections, a joint call will be more efficient. As noted in the memorandum from the ALJ, the parties are instructed to confer and try to work out discovery issues before involving the ALJ. We remain available and willing to attempt to talk through the issues.

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Sent: Thursday, May 04, 2017 2:42 PM
To: 'Green, Derek' <DerekGreen@dwt.com>; 'Cameron, John' <johncameron@DWT.COM>; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul' <paul.rossow@state.or.us>; Chad Stokes <cstokes@cablehuston.com>; Tommy Brooks <tbrooks@cablehuston.com>; 'Tommy Wolff' <tommyw@columbiabasin.cc>; 'Kirk Gibson' <kirk@mrg-law.com>; 'Jordan Schoonover' <jordan@mrg-law.com>
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Ph: (503) 206-1010
Email: kindleylaw@comcast.net

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Jordan Schoonover

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To: 'Chad Stokes'; 'Green, Derek'; 'Cameron, John'; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul'; 'Tommy Brooks'; 'Tommy Wolff'; Kirk Gibson; Jordan Schoonover
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To: 'Green, Derek'; Ray Kindley; 'Chad Stokes'; Cameron, John; ROSSOW Paul; 'Tommy Brooks'; 'Tommy Wolff'; Kirk Gibson; Jordan Schoonover
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I can be on a call if needed.

Johanna

Johanna M. Riemenschneider

Assistant Attorney General | Business Activities Section | General Counsel Division
Oregon Department of Justice
1162 Court St. NE, Salem, OR 97301-4096
Phone: 971.673.1925

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Subject: RE: Discovery Issues in UM 1823

Ray, you already have our written objections to CBEC's data requests that state our position in writing, and going back and forth on email will not be productive. In light of your position that it is premature to discuss the issues over the phone, we will focus on continuing to tag and upload responsive documents. Since you and I will be attending the NWPPA conference next week, perhaps we can sit down for a few minutes to see if we can narrow the list of issues we need to bring to the ALJ for resolution.

Chad Stokes
Cable Huston LLP
1001 SW 5th Ave., Suite 2000
Portland, Or 97204-1136
503-224-3092
503-224-3176(fax)
cstokes@cablehuston.com

From: Green, Derek [mailto:DerekGreen@dwt.com]
Sent: Thursday, May 04, 2017 8:48 PM
To: Ray Kindley <kindleylaw@comcast.net>; Chad Stokes <cstokes@cablehuston.com>; Cameron, John <johncameron@DWT.COM>; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul' <paul.rossow@state.or.us>; Tommy Brooks <tbrooks@cablehuston.com>; 'Tommy Wolff' <tommyw@columbiabasin.cc>; 'Kirk Gibson' <kirk@mrg-law.com>; 'Jordan Schoonover' <jordan@mrg-law.com>
Subject: RE: Discovery Issues in UM 1823

Ray,
As I'm sure you can appreciate, I need to confer with my client before responding. Your email yesterday afternoon raised 15 issues. My goal is to confer with my client tomorrow morning, which is one of the reasons I suggested that we have a call tomorrow afternoon or Monday.

And I do believe a call makes sense – and is certainly consistent with Judge Rowe's direction to the parties. After reviewing the comments you sent by email yesterday afternoon, I really would like to have a discussion about the scope of discovery requests and the needs of this case. I asked for UEC and Staff to join the call too because I think we all would benefit from that discussion. We obviously have different perspectives in this regard. But my hope is that through a conversation we can at least try to narrow the issues.

Please let me know if a time proposed for a call on Friday afternoon or Monday work for you. Johanna, are you available for a call as well?

Thanks,

Derek

P.S.-we will be providing the documents consistent with our data responses tomorrow. They are in the process of being marked to correspond with the data requests.

Derek D. Green | Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2400 | Portland, OR 97201
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To: 'Chad Stokes'; Green, Derek; Cameron, John; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul'; 'Tommy Brooks'; 'Tommy Wolff'; 'Kirk Gibson'; 'Jordan Schoonover'
Cc: kindleylaw@comcast.net
Subject: RE: Discovery Issues in UM 1823

Chad,

Our sharing of the discovery issues with UEC and Wheatridge is "conferring" with both parties. As you know CBEC listed many discovery issues for each party. Obviously, if Wheatridge's or UEC's responses to CBEC's issues show disputes remain, there is no need for a call. Also, we will have a written record of those issues that are still in dispute and why.

Please honor our request and provide a written response by 10 AM tomorrow.

Thanks,

Ray Kindley

KINDLEY LAW, PC
PO Box 569
West Linn, OR 97068
Ph: (503) 206-1010
Email: kindleylaw@comcast.net

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Sent: Thursday, May 04, 2017 3:39 PM

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From: Ray Kindley [<mailto:kindleylaw@comcast.net>]

Sent: Thursday, May 04, 2017 2:42 PM

To: 'Green, Derek' <DerekGreen@dwt.com>; 'Cameron, John' <johncameron@DWT.COM>; johanna.riemenschneider@doj.state.or.us; 'ROSSOW Paul' <paul.rossow@state.or.us>; Chad Stokes <cstokes@cablehuston.com>; Tommy Brooks <tbrooks@cablehuston.com>; 'Tommy Wolff' <tommyw@columbiabasin.cc>; 'Kirk Gibson' <kirk@mrg-law.com>; 'Jordan Schoonover' <jordan@mrg-law.com>

Cc: kindleylaw@comcast.net

Subject: RE: Discovery Issues in UM 1823

Derek and Chad,

It's premature to have a conference call. CBEC sent both UEC and Wheatridge detailed lists of discovery issues. We expected written responses by now. Please provide written responses to CBEC's discovery issues by 10 AM tomorrow, Friday, May 5.

Thanks,

Ray Kindley

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To: Ray Kindley; Cameron, John; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; 'Chad Stokes';

tbrooks@cablehouston.com; Tommy Wolff; Kirk Gibson; 'Jordan Schoonover'

Subject: RE: Discovery Issues in UM 1823

Ray,
Let's schedule a time to confer on the issues you raised with Wheatridge's responses. In light of the additional dispute with UEC's responses and the memorandum from Judge Rowe yesterday afternoon, I suggest that counsel for UEC and PUC staff join the call as well.

Please let me know when you are available. I'm flexible between 12 and 2:30 Friday, and most of the day Monday (except 12-2).

Thanks,
Derek

Derek D. Green | Davis Wright Tremaine LLP

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Sent: Wednesday, May 03, 2017 3:37 PM

To: Green, Derek; Cameron, John; johanna.riemenschneider@doj.state.or.us; ROSSOW Paul; 'Chad Stokes'; tbrooks@cablehouston.com; Tommy Wolff; Kirk Gibson; 'Jordan Schoonover'

Cc: kindleylaw@comcast.net

Subject: Discovery Issues in UM 1823

Dear Derek and John,

CBEC has some significant concerns with Wheatridge's response to CBEC's data requests. First, CBEC still has not received any actual responsive documents from Wheatridge regarding CBEC's first set of data requests. Pursuant to PUC discovery rules, Wheatridge must provide responses within a 14 day period. Wheatridge's failure to provide timely responses to CBEC is significantly delaying the discovery process.

Second, Wheatridge's answer to CBEC first set of data requests indicates that Wheatridge will not respond to certain data requests or that Wheatridge will only provide a few select documents in response to requests for all related documents. Wheatridge's refusal to provide information or unilateral decision to provide only limited information does not comply with discovery requirements.

CBEC has prepared a list of issues and comments (attached) regarding Wheatridge's answer and objections. Please respond promptly with Wheatridge's positions on these issues. CBEC will need to prepare a motion to compel if Wheatridge fails to correct these issues soon.

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From: [Ray Kindley](#)
To: "[Chad Stokes](#)"; "[Green, Derek](#)"; "[Cameron, John](#)"; johanna.riemenschneider@doj.state.or.us; "[ROSSOW Paul](#)"; "[Tommy Brooks](#)"; "[Tommy Wolff](#)"; [Kirk Gibson](#); [Jordan Schoonover](#); "[Tom Grim](#)"
Cc: kindleylaw@comcast.net
Subject: RE: Discovery Issues in UM 1823
Date: Friday, May 05, 2017 2:54:32 PM

Chad and Derek –

While, CBEC appreciates UEC's and Wheatridge's desire to move resolution of these issues towards more discussion, I sincerely believe it would be of limited use. You both are experienced attorneys and know the proper way to handle discovery obligations under the OPUC rules and customs. You appear to have chosen not to follow that path. CBEC has been significantly harmed by Wheatridge's and UEC's failure to provide responses to CBEC's data requests within the required 14-day period. CBEC has also incurred significant costs and delay because of UEC's refusal, until this week, to provide some responses in a manner that properly delineates the data request to which the response is responding. Not only are many requests not being addressed, but CBEC still has not received documents, which you represented would be provided. This cannot continue.

CBEC provided both UEC and Wheatridge with a written description of discovery issues; which also addressed both issues. The only response to CBEC from UEC and Wheatridge has been an offer to participate in phone calls. CBEC provided the written description of discovery issues in the hope that it would receive clarification in writing from UEC and Wheatridge. As you are aware, neither UEC nor Wheatridge has provided any written response to CBEC on its attempt to confer with specificity on the discovery issues.

CBEC believes UEC's and Wheatridge's practice of not responding in the 14-day period and not designating or segregating the responses is worthy of a motion to compel right now. CBEC cannot conduct or complete its discovery within the given schedule with the continued disregard of the OPUC's rules. CBEC needs an Order from the ALJ that requires UEC and Wheatridge to comply with OPUC rules to make progress.

Yes Chad, perhaps we can sit down at the conference next week.

Ray Kindley

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