

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2307

In the Matter of

CASCADE NATURAL GAS  
CORPORATION,

Renewable Natural Gas (RNG) Program  
Petition as required per OAR 860-150-  
0400(1).

MODIFIED  
PROTECTIVE  
ORDER

**DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED**

January 24, 2024, Cascade Natural Gas Corporation filed a motion for a modified protective order to provide additional protections for highly confidential, extremely commercially sensitive information related to Cascade’s renewable natural gas (RNG) and renewable thermal credit (RTC) acquisition and pricing information. Cascade conferred with all parties to this proceeding, and no party objects to Cascade’s request.

The Modified Protective Order includes terms setting forth proper management of highly confidential electronic information accessed by qualified persons. These requirements seem reasonable, and I note that no party objects to these requirements, though I emphasize that I have not completed a detailed review of the feasibility of these requirements for a typical party, and do not have the capacity to do so at this time. Accordingly, should a party in the future have practical challenges associated with meeting these technical requirements, the Administrative Hearings Division will review those practical concerns and seek to address them collaboratively with the Company.

Additionally, there is language in the Modified Protective order regarding discovery that obligates the Administrative Hearings Division to provide working versions of documents. I note that we do not have the ability to accomplish this with our tools—accordingly, I make one change to the Modified Protective Order to reflect this. Otherwise, I find the modified protective order justified. This expedited action does not foreclose a party from seeking *de novo* review of this Modified Protective Order under OAR 860-001-0080(3)(d)&(e).

**ORDER**

IT IS ORDERED that the modified protective order, attached as Appendix A, is adopted.

Made, entered, and effective on Jan 26, 2024.



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Nolan Moser  
Chief Administrative Law Judge



**MODIFIED PROTECTIVE ORDER  
DOCKET UM 2307**

**Scope of this Order**

1. This order supplements the Commission's General Protective Order and governs the acquisition and use of "Highly Confidential Information" produced or used by any party in Docket UM 2307.

**Designation of Highly Confidential Information**

2. Any party may designate as Highly Confidential Information any information the party reasonably determines:
  - a. Falls within the scope of ORS 192.355(33)(a)(B) (i.e., information about review or approval of programs relating to the security of the generation, storage, or conveyance of gas in liquefied or gaseous form) or ORCP 36(C)(1) (e.g., trade secrets or other confidential research, development, or commercial information);
  - b. Is not publicly available;
  - c. Is not adequately protected by the General Protective Order; and
  - d. Includes competitively or commercially sensitive information regarding Cascade's plans to acquire Renewable Natural Gas and Renewable Thermal Credits or competitively or commercially sensitive information requested in discovery that Cascade and the requesting party agree is appropriately designated as highly confidential.
3. To designate information as Highly Confidential Information, a party must place the following legend on the material:

HIGHLY CONFIDENTIAL INFORMATION SUBJECT TO  
MODIFIED PROTECTIVE ORDER NO. 24-\_\_

The party should make reasonable efforts to designate as Highly Confidential Information only the portions of the information that satisfy Paragraph 2 of this Modified Protective Order.

Additionally, if using paper copies, each page of a document containing Highly Confidential Information that is provided to Qualified Persons under this Order (as defined in Paragraph 7) must be printed on GREEN paper, separately bound, and placed in a sealed envelope or other appropriate container which 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 ORDER NO. \_\_\_\_.

4. The designating party shall label or number all documents designated as containing Highly Confidential Information so that Qualified Persons may reference any page they may want to use as an exhibit to testimony or for other purposes in this case.

5. A party may designate as Highly Confidential Information any information that was previously not so designated and was previously provided to the other parties by giving written notice to the Commission and other parties of the new designation. Parties in possession of newly designated Highly Confidential Information must ensure that all copies of the previously undesignated information are annotated to bear the appropriate legend (above) and are accessible only to persons qualified under this Order.
6. A designating party must make reasonable efforts to ensure that information designated as Highly Confidential Information continues to warrant protection under this Order. If designated information no longer constitutes Highly Confidential Information, the designating party should make reasonable efforts to remove the designation and provide written notice to the Commission and other parties.

### **Qualified Persons**

7. Only persons qualified to receive Highly Confidential Information in accordance with Paragraphs 8 and 9 below (“Qualified Persons”) may access Highly Confidential Information designated as such by another party under this Modified Protective Order.
8. Persons automatically bound by this Modified Protective Order and qualified to access Highly Confidential Information are:
  - a. Commission employees; and
  - b. Assistant Attorneys General assigned to represent the Commission.
9. Persons qualified to access Highly Confidential Information upon signing the Consent to be Bound section of Appendix B are:
  - a. Counsel for a party;
  - b. Any person employed directly by counsel of record; and
  - c. An employee of the Regulatory Division at the Oregon Citizen’s Utility Board.

A party must identify all these persons in section 2 of Appendix B when consenting to be bound by the Order and must update this list throughout the proceeding to ensure it accurately identifies Qualified Persons.

10. A party bound by the Modified Protective Order may seek to qualify other persons to access Highly Confidential Information by having those persons complete and sign Appendix C and submitting that information to the Commission and all parties. Within five business days of receiving a copy of Appendix C, the designating party must either provide the requested access to the Highly Confidential Information or file an objection under Paragraphs 16 and 17.
11. For each person bound under Paragraphs 8 and 9, counsel for the party sponsoring the person must file a signed copy of Appendix B or C, as applicable, with the Commission and deliver a copy to the designating party and all parties of record. Upon receipt of the signed Appendix, if there is no objection to the person to be qualified thereunder made under Paragraphs 16 and 17, then Highly Confidential Information must be made available to the person within five business days.

**Access to Highly Confidential Information**

12. Highly Confidential Information will be made available to Qualified Persons using one of the following methods:

(a) **Electronic transmission, storage and filing:**

- **For transmission to or among Qualified Persons or filing Highly Confidential Information at the Commission:** Any Highly Confidential Information sent via email must be encrypted using a Federal Information Processing Standards (“FIPS”) 140-2 approved algorithm such as Advanced Encryption Standard (“AES”) with AES-128, AES-192 or AES-256. Free tools such as 7zip, WinZip and PGP can provide such encryption. The password must be sent separately from the encrypted file. Alternatively, secure email gateways which secure the transmission of email through the use of password protected portals (e.g., Proofpoint’s Email Encryption or Cascade’s Biscom system) can be used as long as those services are managed and licensed at an enterprise level (not a personal account). Highly Confidential Information transmitted through these secure email gateways does not require additional FIPS encryption.
- **For storage of Highly Confidential Information or transmission among Qualified Persons:** Cloud-based file sharing and collaborative solutions such as Box, DropBox, SharePoint Online, etc. may be used if the service is managed and licensed through an enterprise level license, meaning no personal accounts may be used. Unless first agreed to in writing by Cascade, the service must be configured to require multifactor authentication and must store its data exclusively in the United States.

(b) **Paper or USB Drive:**

- **Removable Media** – Any Highly Confidential Information transferred on removable media (USB Drive) must be encrypted using Microsoft Bitlocker and sent via hand delivery or traceable delivery service using an opaque envelope or wrapping. The password must not be sent with the encrypted media.
- **Paper Copy** – If paper copy filing is preferred, a party may file Highly Confidential Information with the Administrative Hearings Division, consistent with the Commission’s hard copy filing procedures. Any paper copies shall be printed on GREEN paper consistent with Paragraph 3.
- Qualified Persons must store the paper copy and/or USB drive in a locked room or cabinet dedicated to the storage of Highly Confidential Information when not in use

(c) **Discovery:** For discovery, a read-only database on Huddle, the Commission’s discovery portal may be used (no downloads). If an Qualified Person needs a working version of a document provided via Huddle, the Qualified Person may request Cascade Natural Gas provide it via electronic or hard copy methods described in this Modified Protective Order.

13. All Qualified Persons must take reasonable precautions to keep Highly Confidential Information secure. Qualified Persons may reproduce Highly Confidential Information to the extent necessary to participate in these proceedings. A Qualified Person may

discuss Highly Confidential Information obtained under this order only with other Qualified Persons who have obtained the same information under this order, and only in relation to this proceeding. Qualified Persons commit to abide by the following terms:

- (a) The entity with which the Qualified Person is associated shall utilize industry-accepted firewalls, up-to-date anti-virus software, and non-end-of-life operating systems;
  - (b) The entity with which the Qualified Person is associated shall secure electronic access to the entity's information systems containing Highly Confidential Information;
  - (c) Unless first agreed to in writing by Cascade, the entity with which the Qualified Person is associated shall store, process, and maintain any and all Highly Confidential Information on designated target servers that reside physically within the boundaries of the United States;
  - (d) The entity with which the Qualified Person is associated shall not transfer any Highly Confidential Information outside of its network via unencrypted means;
  - (e) The entity with which the Qualified Person is associated shall not process or transfer Highly Confidential Information to any unencrypted portable or laptop computing device, or any other unencrypted portable storage medium;
  - (f) The entity with which the Qualified Person is associated shall use two-factor authentication for remote access to systems that access or store Highly Confidential Information;
  - (g) The entity with which the Qualified Person is associated shall secure and prevent misuse of its own email resources;
  - (h) The entity with which the Qualified Person is associated shall not store any Highly Confidential Information on any personal devices.
14. Without the written permission of the designating party, any person given access to Highly Confidential Information under this Order may not use or disclose such information for any purpose other than participation in this proceeding and only then under the terms of this Order.
15. Any Qualified Person or other person retaining Highly Confidential Information at the conclusion of this proceeding must destroy or return the Highly Confidential Information to the designating party within 90 days after final resolution of this proceeding unless the designating party consents in writing to that party's retention of the Highly Confidential Information. This paragraph does not apply to the Commission or its Staff to the extent necessary to comply with the Oregon Public Records Law.

#### **Objection to Access to Highly Confidential Information**

16. All Qualified Persons have access to Highly Confidential Information, unless the designating party objects as provided in this paragraph. As soon as the designating party becomes aware of reasons to restrict access to a Qualified Person, the designating party must provide the Qualified Person and his or her counsel written notice stating the basis for the objection. The parties must promptly confer and attempt to resolve the dispute on an informal basis before requesting review by an Administrative Law Judge ("ALJ"). After receipt of the written notice of objection required by this paragraph, the specific Highly Confidential Information may not be disclosed to the Qualified Person until the issue is resolved.
17. If the parties are unable to resolve the matter informally, the designating party must file a

written objection with the ALJ. The requesting party may file a response to the motion within 5 business days of service of such written objection. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of the last filing. Pending the ALJ's decision, the specific Highly Confidential Information may not be disclosed to the person subject to the objection.

### **Challenge to Designation of Highly Confidential Information**

18. A party may informally challenge any designation of Highly Confidential Information by notifying the designating party. If any party objects to such designation by letter or email, the designating party must provide a written response to the party within five business days that describes in detail why the information is appropriately designated as Highly Confidential Information under this Order; PROVIDED THAT such detail will not include the disclosure of Highly Confidential Information to any individuals who are not Qualified Persons. Once notified, the designating party bears the burden of showing that the challenged information is covered by the applicable definition in this Order. Any party may request that the ALJ hold a conference to help resolve disputes about proper designation, which shall include an in camera review of the challenged information.
19. If the dispute cannot be resolved informally, the challenging party may file a written objection with the ALJ. The objection filed with the ALJ must identify the information in dispute and include a certification that reasonable efforts to achieve an informal resolution have been unsuccessful.
20. Within five days of the objection, unless otherwise ordered by the ALJ, the designating party must either remove the Highly Confidential Information designation or file a written response identifying the factual and legal basis of how the challenged information is protected from disclosure under the Oregon Public Records Law, or under ORCP 36(C)(1). Broad allegations unsubstantiated by specific facts are not sufficient. To the extent that such written response contains information designated as Highly Confidential Information, review of such information shall be performed in camera by the ALJ, with a redacted copy of such response provided to the objecting party.
21. The challenging party may file a written reply to any response within five business days of service of an objection. The designating party may file a sur-reply within three business days of service of a response. To the extent that such written sur-reply contains information designated as Highly Confidential Information, review of such information shall be performed in camera by the ALJ, with a redacted copy of such sur-reply to the objecting party. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of service of the last filing.

### **Duration of Protection**

22. The Commission will preserve the designation of information protected as Highly Confidential Information indefinitely unless the Highly Confidential Information is no longer considered to be Highly Confidential Information. The Commission will notify the designating party at least two weeks prior to the release of Highly Confidential Information.

**APPENDIX B  
CONSENT TO BE BOUND – HIGHLY CONFIDENTIAL INFORMATION  
DOCKET UM 2307**

**I. Consent to be Bound – Highly Confidential Information:**

The Modified Protective Order and this Appendix B govern the use of Highly Confidential Information in UM 2307.

\_\_\_\_\_ (Party) agrees to be bound by the terms of the Modified Protective Order and certifies that it has an interest in UM 2307 that is not adequately represented by other parties to the proceeding.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**II. Persons Qualified under Paragraph 9:**

I have read the Modified Protective Order and agree to be bound by its terms.

I certify that:

1. I agree to keep the information in a secure manner as required by Paragraph 12-14 and to destroy it at the conclusion of this proceeding as required by Paragraph 15.
2. I understand that ORS 756.990(2) allows the Commission to impose monetary sanctions if a party subject to the jurisdiction of the Commission violates an order of the Commission.
3. The party with which I am associated has a legitimate and non-competitive need for the Highly Confidential Information and not simply a general interest in the information.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_



By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

**APPENDIX C**  
**QUALIFICATION OF OTHER PERSONS TO RECEIVE HIGHLY CONFIDENTIAL**  
**INFORMATION**  
DOCKET UM 2307

**I. Persons Seeking Qualification to receive Highly Confidential Information under Paragraph 10:**

I have read the Modified Protective Order and agree to be bound by its terms.

I certify that:

1. I agree to keep the information in a secure manner as required by Paragraph 12-14 and to destroy it at the conclusion of this proceeding as required by Paragraph 15.
2. I understand that ORS 756.990(2) allows the Commission to impose monetary sanctions if a party subject to the jurisdiction of the Commission violates an order of the Commission.
3. The party with which I am associated has a legitimate and non-competitive need for the Highly Confidential Information and not simply a general interest in the information.
4. I require access to the following specific Highly Confidential Information (describe with particularity) for the following reason(s) (attach pages if necessary):

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

If not an employee of a party, describe practice and clients: